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ETHICAL PRECEPTS AMONG THE NATCHEZ INDIANS

By ANDREW C. ALBRECHT

INTRODUCTORY STATEMENTS

The presence of ethical precepts and other moral resources among so-called primitive peoples—a fact well established by anthropological research—has for the most part been given a grudging recognition by historical writers. This is true quite generally in cases where native tribal groups have refused to come under the dominance of European civilization and the Christian faith. It is true above all with regard to extinct peoples who, like the Natchez Indians of the Lower Mississippi Valley, decided to fight back and, when confronted with a final threat of extinction, simply resorted to a massacre.¹

Together with many other extinct preliterate groups, the Natchez are therefore still referred to in popular histories as "savages" who lived without concepts of right and wrong. Traces of social virtues in their communal life are generally ignored, and most of their thinking is loftily and contemptuously described as "superstitious". Only their strange customs, manners, and beliefs—the queer, the quaint, and the gory—are emphasized. The reader is indeed led to believe that there was no hope of any ethical or moral behavior before the coming of French missionaries.

In an ever-increasing mass of unscientific literature, moreover, the lay argument is still perpetuated that the Natchez were

¹ For a critical discussion of this massacre consult Delanglez, 1934.

immoral because they refused to become Christians.² The few who let themselves be baptized, it is argued, were somewhat less sinful; but the others were definitely evil and incapable of a high moral development. Frequently, the mere fact of their extinction as tribal groups is taken as an indication of a general lack of moral resources. Moral appraisals therefore are generally lacking or negative.

Furthermore, the few appraisals that have been attempted by some writers are generally derived from selected statements made by early missionaries. Thus, they are based on ethical standards that were current among men who, because of their profession, believed only in Christian ethics. And, being highly colored by dogmatic considerations, they should never be uncritically accepted.

This admonition can hardly be overemphasized, for the peculiar hazard to right judgment which is inherent in the statements made by early missionaries must always be taken into account, especially with regard to the Natchez Indians among whom the early French Fathers failed completely in their efforts to establish a mission. In their zeal to proselytize the Indians the early missionaries were not interested in making an empirical investigation of native moral problems. Neither did they have the time, the training, and the linguistic skill to accomplish such a task. Like most men in similar circumstances, therefore, they simply blamed the natives for their own failure and continued to judge them from the standpoint of a literate European brought up in the Christian tradition.

Too often indeed the French Fathers regarded their prospective converts as "utterly perfidious". If there were any protagonists who sought to prove that the Indians were really not as bad, they stood alone in their criticism and their comments were generally ignored. In their benevolent condescension, moreover, these friendly critics almost always managed to express a covert prejudice of their own. Besides, their judgments are frequently clothed in a most curious garb of naive supernaturalism. There is indeed little in their actual statements that will bear scientific analysis.

Modern students of mankind, including some outstanding Christian missionaries, are more objective of course. They know,

² The literature in question includes numerous local writings, especially Sunday Supplements, which for obvious reasons need not be cited here.

or should know at least, that ethical or moral behavior forms an essential part of all social living and that there are no known peoples who, before the coming of the white man, did not have some way of urging their members to act in accordance with that which they considered "right" and to accept that which they called "good".³ The mere fact that human beings are biologically so constituted that they have to live in groups makes most of their conduct potentially moral, that is, subject to evaluations by those who decide upon the means to be employed and the ends to be gained in the serious business of living.

Even men in the most primitive stage, as shown by the various traits of their intellectual culture, were already aware of the social indispensability of moral conduct. Their customs, traditions, or laws—to which they have had to conform the world over, long before the coming of the white man—clearly reveal the presence and use of moral precepts and instructions which inculcated among other duties those of being good and friendly to the members of one's family, clan, or tribal group. They also show the presence of such traditional virtues as truthtelling and fidelity to the spoken word. Hence, the early existence of a conventional morality at least, if not a critical one, may definitely be discerned by an unbiased student.⁴

From a pragmatic point of view, moral conduct clearly represents a socio-intellectual need of all human groups. It is the very essence of social necessity.⁵ If internal cohesion and order are to be maintained at all, certain forms of individual and social behavior must be organized in such a manner that they become valid habits, folkways, customs, or laws. In other words, there must be certain ideals and standards as to the best way of living together. These ideals and standards moreover must be disseminated deliberately so that they can exert a constant pull on the desired forms of behavior, no matter how inadequate they may be and to what extent their formulation and dissemination enters the consciousness of the component individuals.

Broadly speaking, then, morality belongs to the very beginnings of human life on earth. In the earliest human groups there must have been some leading individuals already who recognized

³ Cf. Sumner, 1940, pp. 231-232; Keller, 1931, ch. ii; Keller, 1942, pp. 60, 66; Tonzar, 1925, pp. 230-241.

⁴ For a distinction between conventional and critical morality see Randall and Buchler, 1942, p. 248.

⁵ Cf. Dewey, 1922, p. 16; Niebuhr, 1944, pp. 61, 67.

the value of a design in better living. To suppose that moral values were not important in the origin and motivation of primitive folkways and customs is equivalent to denying the very origin of these customs, their social function, societal evolution, and continued existence up to present times. Equally negative is the claim made by certain social philosophers that primitive man was totally incapable of formulating any definite ideas about moral obligations.⁶ This claim obviously ignores the various learning situations that are involved in the acquisition of a custom. Above all, it ignores the previously established intent, that is, an original awareness of goal or plan.

The confusion of thought which is thus created can generally be traced back to the concept that primitive mentality constitutes an undifferentiated whole possessing archaic elements only. No distinction is made by exponents of this particular concept as to the various mental-cultural spheres that can be found among so-called primitive peoples, and the schematic manner in which they assign certain elements to a hypothetical stage of a primitive mentality is indeed most amazing.⁷ Not even an intermediary realm has found a place as yet in their world-wide scheme of Man's mental development. The fundamental stress is still on a difference between a primitive and a modern mentality.⁸

Unfortunately, a similar dichotomy is still adhered to by students of ethics who claim that the recognition of a moral community was practically absent from primitive thought.⁹ Thus, primitive man is dogmatically isolated from modern man. If he is regarded as a moral being at all, he is considered to be totally different. Some students will classify him as nonmoral, but the general implication often is that he was immoral. The anthropological facts that there is no such a being as a primitive man and that the quality or state of being modern is merely the result of an accumulative evolutionary process are completely ignored.

Even among anthropologists there is still a perverted unwillingness to consider the problem of moral value in preliterate societies. In fact, there are some members in this profession who insist that anthropological studies cannot achieve a status of true science unless all ethical inquiries are vigorously eliminated.

⁶ Cf. Barrett, 1933, ch. ii.

⁷ As is well known to cultural anthropologists, this is true particularly of Freud, Jung, and their followers.

⁸ Cf. Levy-Bruhl, 1922

⁹ Barrett, *op. cit.*, 43.

The very process of inquiring into matters pertaining to moral values, they contend, is productive of scientific confusion and should therefore be left to the realm of speculative philosophy.¹⁰ Others, it is interesting to note, still hold to the widespread lay argument that the moral or ethical aspects of human conduct imply a supernatural basis for their existence and can be explained only from a theistic point of view.¹¹

Admittedly, there are some substantial methodological difficulties which help to account for such attitudes. To begin with, ethical or moral behavior is not something sharply demarcated from other forms of human conduct, and its underlying principles do not have any fixed qualities of their own.¹² There is indeed considerable fusion of this type of behavior with the religious and aesthetic aspects of a given culture. Thus, no hard and fast characteristics can be given with which to make a precise distinction. And it is generally quite difficult to fit the given facts into the structure of an organized anthropological science.

Due to the great variability of human objectives moreover, the moral values possessed by a given tribal group may or may not reveal a basic uniformity in human ethical perception. Even if certain elements should betray such a uniformity, the conditions under which they are applied to conduct are still bound to be different from one cultural group to another. The same is true of course with regard to the specific consequences resulting from a standardized form of conduct. Equally great is the variation as to the particular way in which an ethical system affects the basic direction of living within a given cultural group.

Further differences—and methodological difficulties—present themselves when the investigator attempts to take into account the ultimate source of a native ethical system. If an origin other than supernatural authority or that of a legendary hero is mentioned by native informants, it is indeed difficult to ascertain whether it is that of a general tradition, a specific code set forth by leading individuals, or a collection of precepts borrowed from another cultural group. Still more difficult is the search for critical or reflective elements which are apt to

¹⁰ While these attitudes are not generally set forth in writings, they are nevertheless imposed upon beginning students.

¹¹ In this connection see Schmidt, 1933, pp. 146-148.

¹² Boas, 1940, pp. 312-315.

reside in the minds of those who govern the functioning of an ethical system, for there is little doubt that even in preliterate societies the leaders do not always succeed in convincing one another with regard to ethical matters.

Finally, there is always the perplexing problem as to what particular system of moral sanctions is used by a given tribal group for the purpose of enforcing a desired form of behavior. In this regard several questions arise at once. Is there a conscious willingness to obey, or merely a mechanical conformity? What is the ethical status or reward and punishment, if any? Does coercion take place by force, or by persuasion? These and many other points of investigation form an essential part of ethical inquiries, but can in most cases no longer be answered for the simple reason that there is a lack of detailed information. This is true particularly with regard to extinct tribal groups.

In spite of these difficulties, however, there remains in many cases a factual basis for scientific analysis. If native concepts of right and wrong or good and bad are faithfully recorded by early observers, they must have possessed a dimension of cultural reality which betrayed itself in observable data. In other words, if they are recorded at all, the chances are that some specific situations to which they were applied are also mentioned. Thus, the presence of ethical precepts can definitely be established, regardless of the question whether they were correctly or incorrectly applied to conduct. Their functional status, moreover, can be ascertained by studying the specific conduct situations from the point of view of some human need or desire.¹³

It is in this restricted sense, then, that ethical precepts found in the intellectual cultures of preliterate peoples can be studied empirically, provided of course that the authenticity of the information is beyond doubt. Anthropologists certainly need not be concerned about supernaturalistic theories which, because of their empirico-pragmatic difficulties, are inimical to scientific objectivity. Neither is it necessary for them to join certain students of ethics in a highly speculative search for the absolute, that is, the erection of ethical values into a reality transcending all human relationships. However, they can hardly afford to ignore the moral aspects of preliterate cultures. Indeed, by studying these aspects, instead of ignoring them, their understanding of mankind will be

¹³ For a successful study of a preliterate ethical code see Radin, 1931, *cf.* also Blish, 1926.

on a far firmer basis and the extent of ignorance which still prevails in the mind of the layman with regard to so-called primitive peoples will greatly diminish.

Fortunately, there is some valuable ethnological source material to be had which can be subjected to ethical inquiries of the aforementioned type. A case in point are the historical and ethnological data pertaining to the Natchez Indians. These particular data have been selected for the present study for the simple reason that the writer is more familiar with them than any other. A more important reason for their selection is that the moral aspect of this particular Indian group, because of conflicts with the French, has been greatly distorted not only in popular writings but in the original source material itself. Actually, the present study is the direct outcome of an earlier one dealing with the Indian-French relations at Natchez in general.¹⁴

The treatment of Natchez morality in the given source material is admittedly much too brief. Most of the evidence moreover constitutes only direct expressions of early French writers, instead of native testimonial elements. However, some very substantial data furnished by native informants are included now and then in the French writings. What is still more important is the fact that they were included with no special purpose other than simple exposition. Thus, they constitute indeed a most valuable type of evidence.

From a purely literary point of view, the native statements seem to be characterized more by simplicity than by intellectual content. They almost give the impression of a storybook character. Yet (it is their very simplicity, a mode of expression generally encountered among preliterates, which helps to guarantee their authenticity. Besides, they consist almost always of clear and distinct ideas, and their objective content is sufficiently full to extract whatever interpretative value they have to offer.

In view of the scarcity of native information, it is impossible of course to attempt a more complete and detailed treatment of the subject matter. The primary purpose of the present investigation, however, is to establish sufficient evidence for the presence of ethical precepts among an Indian group which, from the standpoint of its moral behavior, has been greatly misinterpreted. A secondary purpose is to make a systematic beginning in a seriously

¹⁴ Albrecht, 1940.

neglected field, for in terms of contemporary interests there is certainly a felt need for ethical inquiries among preliterate peoples.

With regard to the analysis of the available evidence and its presentation in the present paper, it became imperative to separate the French testimonial elements from those of the natives and treat them first. Although they are less significant and full of contradictions, they occupy a primary position in the documentary material, especially from the point of view of time, and lead indirectly to the testimony furnished by native informants. The ultimate value of the present investigation depends of course on what the Indians themselves had to say.

FRENCH TESTIMONY

The early French explorers of the Natchez bluff locality, significantly enough, remain completely silent about the native moral situation or the moral characteristics of the Indians. Like most European explorers of the 17th century, those of the Lower Mississippi Valley simply were not interested in the moral problems of the natives. Their sole concern was to make allies of the particular tribes which they encountered and to use their military assistance to protect the newly acquired territory. Indeed, they had little time and inclination to be bothered about the way of life preferred by the Indians.

Consequently, those tribes which joined them were regarded as "friends", while the others were simply classified as enemies.¹⁵ Any group which gave up its alliance was looked upon as treacherous, regardless of the underlying reason. The Natchez, interestingly enough, defied all classification for a while. Since they were the most powerful tribe encountered by the French in the Lower Mississippi Valley, their friendship was greatly desired. Yet, only one political faction was inclined to become friendly, while the others became outstanding opponents. These conditions, as is well known, led to several military conflicts, a general uprising, and the final defeat of the Indians.¹⁶

During the period of contact, which began with La Salle's visit in 1682 and ended with the dissolution of the tribal group in 1730, there were some relatively long inter-war periods how-

¹⁵ Margry, 1879-1888, IV, 155, 412.

¹⁶ Swanton, 1911, pp. 188-257.

ever.¹⁷ Thus, many Frenchmen had ample opportunity to dwell among the natives of the famous bluff locality on the bank of the Lower Mississippi River. Missionaries, traders, soldiers, farmers, and colonial officials succeeded each other, but only a few of them took the trouble of recording their experiences among an alien people in an alien world. Even those who did so were little concerned about native morality, and their appraisals almost always reveal a highly subjective background.

This is true particularly of the early missionaries. The only difference between them and the early explorers is that their judgments of the natives betray a large-scale theological scheme, instead of a military one. The Indians, not being Christians, were generally regarded as immoral. Those who welcomed the missionaries, or at least tolerated them, were looked upon as less sinful; but the others were definitely regarded as evil. Thus, in their pathetic eagerness to save the latter some of the early French Fathers were actually content with the mere baptizing of children.¹⁸

Based on a deep and sincere conviction that only a Christian morality was conducive to the social well-being of the Natchez, the moral appraisals of these Indians as set forth by the missionaries are therefore generally negative. Indeed, no due weight can be attached to them and they deserve little consideration in the present study, except for pointing out the spiritual disposition from which they arose and showing the dogmatic fallacy that is involved in their contemptuous reference to native immorality.

The testimonial elements themselves, as will be seen presently, are definite in meaning; but the content of what is asserted is scientifically false. This much can be said of them without resorting to an anticlerical philosophy. For the early missionaries, it must not be forgotten by modern students of mankind, simply did not have the time, the training, and the linguistic skill to make a thorough study of native moral problems. Furthermore, because of certain circumstances beyond their control, such as military and economic conflicts between the Indians and the French, the missionaries were in no position to obtain the trust of their pros-

¹⁷ Albrecht, *op. cit.*, 341-342.

¹⁸ Margry, *op. cit.*, IV, 411.

pective converts.¹⁹ Only a complete trust, as every field worker knows, would have enabled them to make a penetrating investigation.

It is not surprising therefore to find the following judgments in their letters and various other writings. Father St. Cosme, who in 1706 was killed by a Chickasaw war party, writes of the Natchez: "one is persuaded that they are all thieves and try only to do harm."²⁰ Gravier, by stating that "they practice polygamy, steal, and are very vicious", gives a similar moral verdict—the verdict of the unsuccessful missionary priest.²¹

Curiously enough, however, a somewhat different point of view is held by De la Vente. This missionary priest, unlike the other French Fathers, recognizes the presence of certain social virtues. In one of his letters he states:

Union reigns to such an extent among them that not only does one see no lawsuit among them, but they even receive in common the outrages perpetrated upon a single person, and the village, even if it perishes entirely, will perish rather than abandon the quarrel of one of their brothers, however unjust they may be.²²

In other words, he discerned traces of a wholesome communal life and of a collective retaliation which in a special social sense was made an ethical or moral issue. Not being a trained anthropologist, he did not realize of course that he was dealing with a special endowment found among many preliterate groups the world over: namely, the motive of blood revenge and its inevitable corollary of brotherhood.

The same missionary gives further evidence of the existence of social virtues by stating that:

Envy, anger, oaths and pride are unknown among the greater part of them, and to put everything in a word, they have nothing savage but the name, since good sense, which is of all places, has been willing to live among them.²³

Concerning native honesty, he writes:

Their honesty regarding that which one sells to them is inviolable on their part, and it would be desirable that the French had as much good faith in their trading, as they use themselves in what they trade to us.²⁴

¹⁹ Le Marie, 1717, pp. 22-26.

²⁰ Gosselin, 1907, pp. 45-46.

²¹ Shea, 1861, p. 136.

²² Gosselin, *op. cit.*, 46.

²³ *Ibid.*

²⁴ *Ibid.*, 45.

Thus, De la Vente at least testifies to the presence of certain forms of moral behavior. In explaining their source, however, he holds to an absolutistic conception of an impersonal cosmic spirit—a “good sense” which “has been willing” to live among the Natchez. Furthermore, he does not bother to explain why it was that the French were less honest. Had he been aware of the empirically established fact that people’s views as to what is honest differ in different countries and for the same people at different times, he would have been able to portray his own countrymen in a more satisfactory manner to an inquisitive student of ethics.

His absolutistic interpretation, it is interesting to note, contains an additional reference—a poetic reference to a natural law—the criticism of which should be left to the realm of speculative philosophy. Anthropologists will do well however to consider its content and its use by an early missionary for the purpose of explaining the presence of relatively high ethical standards among a pagan people. The statement in question reads as follows:

It seems to me that there remains yet among these barbarous people excellent remnants of that beautiful natural law that God engraved on the heart of men in the state of innocence.²⁵

Thus, by calling the Natchez a barbarous people De la Vente still harbored a prejudice against them. And the virtues which he found among them he simply regarded as a survival from a hypothetical prehistoric stage, from a state of innocence which betrays an interesting metaphysical relationship to that set forth later on by Rousseau.²⁶

Attempting to explain the process of survival, he writes:

Here is a part of what they have preserved without writings or reading, without any other thing than what their fathers have left them by tradition as a heritage of the natural law.²⁷

Evidently, he realized the functional significance of traditions in the maintenance of moral resources. But he obviously failed to see that, instead of a survival from a state of innocence, he was

²⁵ *Ibid.*, 45-46.

²⁶ For an interesting comparison of Rousseau’s philosophy of Human Nature with those set forth by Hobbes and Locke see West, 1944, part i.

²⁷ Gosselin, *op. cit.*, 46.

dealing with a basic feature of societal evolution: namely, the development and preservation of a simple folkethics which in the life of any successfully persisting group is an indispensable safeguard to communal living.

Less dogmatic and speculative than the comments made by the aforementioned missionaries, but more detailed and realistic, are those made by other contemporary French writers. In their official capacity as employees of the French colonial government, some of these writers dwelled for a considerable time among the Natchez. And several of them produced well-known historical narratives which have come to be works of acknowledged excellence. Taking careful notes or keeping a diary of the many things they saw and experienced, the authors in question have furnished not only excellent historical accounts but also some valuable geographical and anthropological data. Still more important from the point of view of the present investigation is the fact that they included some precise statements about the morality of the Natchez.

In a somewhat surprising categorical fashion, for example, Dumont de Montigny, a French officer, states:

They have by way of principle not to take the wife of another and not to kill those who do not harm them. Here is within these two articles the summary and the epitome of their morality.²⁸

The objective content of this statement is not particularly surprising, for it reveals the presence of scientifically sound items within the ethical code of a social group and can thus be accepted as potentially reliable. Unexpected however is the directness of its assertion. The reader is indeed led to believe that Dumont made a systematic investigation. This is all the more surprising because the author in question had a great penchant for poetry and the military life.²⁹ The facts are that he was little concerned about native morality and, as a rule, was quite content in regarding the Indians as utterly perfidious. More than any contemporary writer, he consistently refers to them as savages.³⁰ And his writings contain only scattered references to native ethics.³¹

²⁸ Dumont de Montigny (Edited by Le Mascrier) 1753, I, 166.

²⁹ Delanglez, 1937, pp. 39 ff.

³⁰ Dumont, *op. cit.*, I, 135, 157.

³¹ *Ibid.*, I, 208.

Could it be possible therefore that this poet-historian, who has been appropriately designated as such by a recent critic of his works, simply based his generalization on data received from other writers? The habit of including such data is frankly admitted by him in several places. Literary historical research moreover has shown convincingly that Dumont was not greatly tempted in his career as a writer to apply the full searchlight of methodic sincerity.³² It must not be assumed however that his summary statement on Natchez morality is false or was produced out of complete obscurity.

The most likely person from whom he could have received the information in question is Du Pratz, for it is this particular writer who dwelled longest among the Natchez and was most familiar with their morality. Significantly enough, the Indians seem to have put more trust in this French resident than in any other. As will be shown presently, they even revealed their most esoteric lore to him. For a full understanding of their ethics therefore the modern student is almost entirely dependent upon the statements made by this particular author. Dumont's writings, as emphasized by Dr. John R. Swanton, are more accurate with regard to the material culture of the Natchez, while those of Du Pratz betray a greater accuracy with respect to their social and intellectual life.³³ It is also a well-established fact that Du Pratz furnished some of his data to Dumont before his own work was written.

Du Pratz, seemingly, learned to appreciate the moral character of the Indians the hard way, that is, by changing his former convictions. In this, according to his own statements, he was influenced by Bienville, the Governor of French Louisiana. Comparing the natives to brute beasts during a conversation with the Governor, he was admonished that he would find out differently as soon as he would get to know them more intimately. His reaction to Bienville's remarks and the change of his own opinion are described by him as follows:

He told the exact truth. I have had time to undeceive myself, and I am convinced that those who would see the true portrait of them which I will make presently will be convinced with me that it is very wrong to call men savages who know how to make such very good use of their reason, who think justly, who have prudence, good

³² Delanglez, *op. cit.*, 39 ff.

³³ Swanton, *op. cit.*, 4.

faith, generosity, much more than certain civilized nations who will not suffer themselves to be placed in comparison with them for want of knowing or wishing to give things the value they deserve.³⁴

This apparent adulation is continued by him in many scattered passages of his work. In one place he writes of the Natchez that "they are gentle, humane, truthful, and very charitable" and that more than one Frenchmen "has experienced this last quality among them". Further praise is bestowed upon them in the following words:

The Natchez nation was one of the most estimable in the colony in the first times, not only according to their own tradition, but also according to those of other peoples, to whom their greatness and the beauty of their customs gave as much jealousy as admiration.³⁵

And, comparing them with other Indian tribes of Louisiana, he says:

Their manners were besides gentler, their way of thinking truer and fuller of feeling, their customs more rational, and their ceremonies more natural and more serious, which made this nation more brilliant and distinguished it from all others. It was indeed easy to recognize that it was much more civilized.³⁶

It is not to be concluded however that Du Pratz flattered the natives in a servile way. Evidently, the affection between him and the Natchez was mutual. And he continued to praise them in spite of the fact that they had burned his own house down.³⁷ Furthermore, when he wrote his book it certainly was not the fashion of the time to praise a people who had massacred most of the French settlers and soldiers before they finally became extinct as a tribal group. Unlike other French writers and regardless of the aforementioned events, Du Pratz continued to call the Indians "naturals" and never referred to them as barbarians.³⁸

One of the reasons why the Natchez liked him so well is suggested in a statement made by the wife of a leading member of the group; namely, the wife of the Great Chief. When this chief,

³⁴ Du Pratz, 1758, I, 88.

³⁵ *Ibid.*, II, 221.

³⁶ *Ibid.*, II, 308.

³⁷ *Ibid.*, I, 186.

³⁸ Swanton, *op. cit.*, 50.

in accordance with a long established custom, was ready to die as a sacrificial victim on the occasion of the death of "Tatoed-Serpent", the leading War Chief of the group, his wife appealed to Du Pratz and pleaded with him to prevent the self-immolation of her husband. The words used by her are said to have been as follows:

... if you leave us, my husband is a dead man, and all the Natchez will die; stay then, for he opens his ears only to your words, which have the sharpness and strength of arrows. You are his true friend, and do not laugh when you speak, like most of the Frenchmen.³⁹

That Du Pratz was not always above laughing at the natives, and in one instance at least had a secret laugh at them, may be gathered from the following incident which he himself relates. With the aid of a magnifying glass and a bit of punk he generated a small flame before their eyes and pretend that he had caused this flame to come from the sun which, as he knew, was their principal diety. And seeing the great astonishment which he had thus created, he walked off by himself with "a hearty laugh at the comical scene".⁴⁰

In the same connection he also reveals unwittingly that he was not always ethical in his dealings with the Indians. Turning their astonishment at the wonderful glass and their explicit trust in him to his own economic advantage, he decided to sell the glass to the Great Chief. The sale, according to his own words, was concluded as follows:

I asked nothing in return but things necessary for my subsistence, such as corn, fowls, game, and fish when they brought him any of these. He offered me twenty barrels of maiz, of 150 pounds each, twenty fowls, twenty turkies, and told me that he would send me game and fish every time his warriors brought him any, and his promise was punctually fulfilled.⁴¹

Evidently, Du Pratz was treated well by the Natchez. Whatever shortcomings there may have been in his own ethical behavior, there were no broken promises on the part of the natives. Again, it is not to be concluded however that he admired native morality so much simply because he was treated so well. His

³⁹ Du Pratz, *op. cit.*, III, 41.

⁴⁰ *Ibid.*, II, 346.

⁴¹ *Ibid.*, II, 349.

appraisals are undoubtedly exaggerated, but the moral qualities in question are those which he in his dealings with the Indians not only sensed or felt but also knew and understood.

Unfortunately, he leaves these qualities undefined. Like most writers of his time, he is not concerned with criticism, clarification, and definition. In his scattered references to native morality there is indeed not a single speculative issue that is explicitly formulated. Thus, extracted from the general context of his writings, his statements appear like a bewildering succession of vast assumptions; whereas in reality they constitute a reflective appraisal of what he found out piecemeal in his intimate contacts with the natives: namely, that they were good neighbors and possessed relatively high moral standards.

There is no good reason therefore to assume that Du Pratz simply fabricated in his own mind an ideal pattern of native moral behavior. Certain Natchez customs, sentiments, and beliefs were as shocking to him as they were to the missionaries. This was true especially with regard to the fact that chastity in unmarried girls was not valued by the natives. Hence, like other French writers and like the early missionaries, he deplores the lack of moral injunctions against the pleasure-seeking of these girls.⁴² At the same time, however, he does not fail to point out that many of his countrymen, including some better-class Frenchmen, actually encouraged the practice on the part of the Indian girls to offer themselves willingly as mistresses.⁴³ He also stresses the apparent fact that after marriage infidelity was extremely uncommon and divorce practically unknown. And as to the establishment of native marital associations he adds:

By an admirable agreement and one well worthy of being imitated, only those who love each other are married, and those who love each other are married only when their parents agree.⁴⁴

One native practice which he found inhuman and unbearable was the extensive human sacrifice on the occasion of the death of a great chief. Such an occasion, as already stated, was provided in 1725 when Tattooed-Serpent, the leading war chief of the tribe, died. Being greatly concerned about the welfare of the Indians, Du Pratz, perhaps more than any other French resident, sought to

⁴² *Ibid.*, II, 386-387.

⁴³ *Ibid.*, III, 36..

⁴⁴ *Ibid.*, II, 389.

prevent the traditional custom.⁴⁵ But his intercession, like that of the other French officials, succeeded only in reducing the number of sacrificial victims and saving the life of the Great Chief who appears to have been a firm friend of the French until his death in 1728.

The intimacy of Du Pratz with the Natchez, especially with the leading members of the tribe, also made it possible for him to elicit some significant oral communications which other French residents, above all the missionaries, were unable to obtain. This is true particularly with regard to their ancient wisdom which in the form of an esoteric folklore was sustained by a special group of elders who functioned as the promulgators of native morals. The content of these matters, it is important to note here, lay entirely outside the range of Du Pratz's spiritual disposition. And, not being a trained investigator, he could hardly have anticipated what he heard.

Most surprising of all must have been the story of a native temple guardian which disclosed not only the existence of a traditional code of ethics but also a legendary explanation of the origin of this code. On several occasions, moreover, Du Pratz became an eyewitness to specific situations during which some earnest and intense moral judgments were made by certain members of the tribe. These judgments, like the story of the temple guardian, appear to have been faithfully recorded by him. And since they are carefully placed in quotation marks, they may well be regarded as native testimonial elements. To be sure, the data in question are reported only once and only by Du Pratz. Thus, some critical possibilities do exist, especially with regard to their French rendition and further translations into English. But their content is in agreement with the whole body of modern ethnological knowledge and has therefore a definite claim to credibility.

NATIVE TESTIMONIAL ELEMENTS

Of the testimony set forth by the Natchez themselves the aforementioned story of the temple guardian is by far the most significant from the point of view of the present investigation. Above all, there are two paragraphs which stand out in sharp relief. Since they deal with the coming of a legendary ancestor

⁴⁵ *Ibid.*, III, 29 ff.

who as the founder of a higher culture was supposedly responsible for instituting a traditional code of ethics, they deserve to be quoted in full. Their English rendition is as follows:

A very great number of years ago there appeared among us a man and his wife who had descended from the Sun. It is not that we thought that he was the son of the Sun or that the Sun had a wife by whom he begot children, but when both of them were seen, they were still so brilliant that it was not difficult to believe that they had come from the Sun. This man told us that having seen from above that we did not govern ourselves well, that we did not have a master, that each one of us believed that he had sufficient intelligence to govern others while he was not able to guide himself, he had taken the determination to descend in order to teach us how to live better.

He then told us that in order to be in a condition to govern others it was necessary to know how to guide one's self, and that in order to live in peace among ourselves and please the Supreme Spirit it was necessary to observe these points: To kill no one except in defense of one's own life, never to know another woman than one's own, to take nothing that belongs to another, never to lie or become drunk, and not to be avaricious, but to give freely and with joy that which one has, and to share food generously with those who lack it.⁴⁶

As the account proceeds, the legendary figure becomes not only the moral lawgiver of the tribal group but also their sovereign. He then leads them into a new country, has temples built, and becomes the institutor of their sacred fire. In fact, he is made responsible for the entire social, political and religious structure of their culture. Finally, he is supposed to have died in an ordinary human manner, although there is one account which claims that he had himself changed into a stone statue.⁴⁷ His descendants, significantly enough, are said to have become the nobility or ruling class of the Natchez, the Sun people.

The entire narrative represents of course the result of a legend-making process and as such has no specific value as a historical documentation. From a strict point of view of historicity it is merely another good example of how preliterate approach the problem of explaining the origin of something which they can no longer account for on the basis of concrete experience. In other words, earlier facts of historical concrete-

⁴⁶ *Ibid.*, II, 331-333.

⁴⁷ Gosselin, *op. cit.*, 39-40.

ness are fused into the amorphous unity of a traditional legend, and whatever explanations are offered are generally derived from a posteriori type of reasoning. Yet, the terms and concepts used in these explanations possess a distinct historical reality, for they were definitely conceived in the minds of certain individuals. As such they are subject to a systematic analysis and critical appraisal like any other historical fact. Corroboration on intrinsic grounds, moreover, gives them quite often a credibility equal to that of any other narrative type of source.

In the aforecited portion of the temple guardian's story, therefore, it is not the legendary source of ethical principles that is important but the very existence of these principles and their cultural function among the tribal group in question. Equally significant are the specific reasons given for their origin. Although the narrative belongs to the realm of legend or myth, there is no disembodied contemplation of an ethical outlook that stands above the world of everyday human needs. On the contrary, the principles in question are said to have been set forth for the specific purpose of reviving a badly disorganized political body and providing it with a good government. Even self-government is emphasized.

Unlike the Ten Commandments of the Ancient Hebrews, moreover, the ethical code of the Natchez was not directly revealed by a divinity and its acceptance was not demanded by an all-powerful God. All that is stated in this connection is that their Great Spirit would be pleased if the tribal group would adopt the code as offered to them by their legendary hero. Its adoption, significantly enough, is said to have been preceded by a council meeting in which the elders of the tribe gave their approval.⁴⁸ In other words, a secular rather than an ecclesiastical basis is emphasized. The sanction of antiquity, instead of religion, stands out in sharp relief.

As far as the moral precepts themselves are concerned they comprise familiar Thou-Shalt-Not's found among many other peoples the world over. It is the manslayer, adulterer, thief, utterer of falsehoods, drunkard, and miser whose conduct is regarded as not being conducive to social well-being and therefore forbidden. Actually, there is nothing new about pronouncing the conduct of such individuals to be morally culpable. Such a pro-

⁴⁸ Du Pratz, *op. cit.*, II, 333.

nouncement is essential to the self-maintenance of any human group and represents a basic need in the ever-increasing socialization of man. What is significant in the case of the Natchez is the ideological preparation. Their early ancestors, as stated explicitly in the legend, were asked to observe the precepts in question for the express purpose of living a peaceful and better life, that is, a socially improved or moral one.

The conceptual foundation of their morality is indeed amazingly simple and of instant appeal. Although it is contained in an abstract and legendary frame of reference, the level of abstraction remains elementary. There is no theological evaluation other than social improvement, and the moral precepts are not offered as ready-made absolutes. Above all, there is no dichotomized thinking which divides human conduct into definite categories of good and evil. Neither is there any emotional interference with clear communication by the use of such labels as justice, happiness, the highest good, liberty, equality, and freedom. What is emphasized is not an ideal order of goodness but such desirable and observable forms of human behavior as the saving of human life, truth-telling, marital fidelity, mutual aid, and a high respect for what belongs to another. At the same time there is a clear recognition of the social fact that some individuals are apt to hinder others from carrying out a desired line of behavior. For the statement "to kill no one" is qualified by the additional phrase "except in defense of one's own life."

Nothing is said about the moral accountability of the individual and his conception of harmful consequences following automatically from forbidden acts. Neither is there any direct evidence of how the code actually functioned within the tribal group. This lack of evidence is unfortunate, for it may lead some students of ethics to assume that the individual members of the tribe were incapable of possessing or acquiring a sense of moral responsibility. Others may press the point still further by insisting that what is labelled here a moral code does not constitute such a code at all. Since there is no mention of ethical regards for the personality of others and since there is no indication of an appreciation of moral values for their own sake, these possible critics may draw the conclusion that the code in question is nothing but a primitive social safeguard, a taboo which under the compulsion of fear was observed automatically.⁴⁹

⁴⁹ Cf. Barrett, *op. cit.*, ch. ii.

Anticipation of such criticisms raises the question of what is meant here by the term morality. The question is an important one, but is not easy to answer. Any claim to precision and completeness is dangerous for the simple reason that even the most advanced students of ethics have not yet attempted an agreed definition of what morality essentially is. Neither do they always make clear what they mean by the use of the word. Since the meaning of a verbal symbol depends on that of other words used in defining it, any definition moreover would require about a dozen auxiliary ones. It is not surprising therefore that formal definitions have been broadened by specialists to such an extent that they include nearly all of human conduct.

Those who think that some inexorable necessity dictates the way in which the word should be used merely help to increase the complexity of the task. No careful choice of words will eliminate the complex psychological processes through which the term morality directs the attention of an individual reader. The conditioned responses associated with this particular word are manifold indeed, and very little is gained by attempting a clear-cut definition. Furthermore, the question of what is meant by morality is only one of the many problematic ones that concern themselves with human values in general. As such it is submerged in a speculative philosophical outlook which can hardly be presented here.

Yet, to avoid semantic confusion and forestall possible accusations on the part of certain critics that there has been an unwarranted generalization in this study with regard to the nature of morality, it becomes essential to clarify the present usage of the word and make a brief statement about its implied meanings. Whenever the term is used as an unmodified noun, it is intended to refer to an evaluation of human conduct by a given people and their efforts to promote a better way of life on the basis of what they hold to be a commendable conduct. Thus, however imperfectly described, the meaning of morality is not to be looked for in a simple spiritual entity or psychological process. Neither is it to be explained in terms of the conscience of a common humanity, although the writer does by no means preclude the possibility that certain permanent principles may be encountered that are applicable to all peoples at all times. Above all, morality is not made wholly individual and personal. To an investigator trained in the functional, pragmatic viewpoint, it signifies a large

set of socio-intellectual functions including not only rational considerations but also conventional attitudes, as well as a standard set of rules and prohibitions for the promotion of what is held to be a better way of life.

Methodologically, a useful distinction can be made however between a conventional morality and what might be called a critical one. The former is held here to imply the presence of a fixed standard or code to which the members of a given group adhere in a habitual or customary manner, whereas the point of reference with regard to a critical morality lies in the thoughts and reflections of individuals. Obviously, the difference is not an absolute one. For the moral aspirations of any group manifest themselves undoubtedly in both. Even the adherents of a most rigid ethical code can hardly fail as individuals to do some reflective and critical thinking of their own, especially if they are the leaders whose task it is to govern the functioning of such a code.

The distinction nevertheless constitutes a useful tool in research. This is true particularly with regard to ethical inquiries among preliterate peoples, where the presence of a critical morality is usually so obscured by the lack of clear evidence that students are apt to neglect a search for it. In such studies the impression is usually given that the adherence of the natives to their moral codes is more or less, if not completely, automatic. And, not to make this type of conformity a meaningless one, the investigator generally satisfies himself by emphasizing the moral sanctions that happen to be in vogue. The possibility of a conscious willingness to obey, on the part of some individuals at least, is hardly ever considered.

Fortunately, in the case of the Natchez there are a few native testimonial elements that are indicative of the presence of a critical morality. When the wife of Tatoed-Serpent, who in 1725 on the occasion of the death of her husband was slated to become a sacrificial victim, presented her farewell address, she gave the following solemn instructions to her children:

Do not speak any evil of the French. Walk with them.
Walk there as your father and I have walked, without design.
Speak of them as he and I have spoken. Do nothing contrary

to the friendship of the French. Never lie to them. They will give you food and the other things of which you have need, and if they give you nothing, return without murmuring. They were friends of your father, so love them all and never refuse to see them even when they will not receive you well.⁵⁰

This morally significant admonition, moreover, is followed up by another one addressed to the French in the following words:

And you French chiefs, always be friends of the Natchez; trade with them, do not be too stingy with your goods, and do not repel what they bring you, but treat them with gentleness.⁵¹

The critical element in question obviously lies not in the attempt of this leading Natchez woman to influence the moral conduct of her children, but in the added effort to incite the French to a more desirable conduct. This is all the more significant since the "we-group" pattern of the tribe at that time was split into two factions.⁵² One group under the leadership of the Great Chief and that of Tatoed-Serpent, the War Chief, decided to put a wholehearted trust in the French, while the others either became outstanding opponents or lived in apathy and frequent irritability.

In all probability it was this dualistic contact situation which called for a newer and more functional morality on the part of those who strove to remain friendly with the French. As a result of frequent conflicts with the French, tribal security was at a premium. Hence, by extending their morality so as to include their new relations with the French some of the Natchez at least sought to make their changing world as good as possible. In other words, not the idea of an ultimate destiny but a historical particularity caused them to make a shift in their tribal moral attitudes.

Whatever the exact causes of their moral appeal to the French may have been, the appeal itself constitutes a deviation from a customary tribal pattern. It was made by one faction only and as such forms a part of a critical morality. Its very occurrence proves the all-important fact that individuals did not always think in terms of tribal attitudes only. The disparity between traditional morals and actual conduct was probably as great as anywhere else.

⁵⁰ Du Pratz, *op. cit.*, III, 51.

⁵¹ *Ibid.*, III, 51-52.

⁵² Swanton, *op. cit.*, 220.

Significantly enough, however, no new moral ideas are introduced. There is certainly no evidence of an ethical goal of the brotherhood of mankind, an ideal order of goodness, which could well have been advocated by the Natchez if the French missionaries had been successful in christianizing them. As it was, the wife of Tatooed-Serpent could only bequeath to posterity the moral order which happened to be prevalent in Natchez society at that time. Her intellect did not have the opportunity to look out over the entire world and view mankind as a single group. Neither did it have the opportunity to develop such generalized concepts as freedom, liberty, and equality. Her ethical outlook was still practical, for it was directly involved in the organization of a changing community. In fact, it was so practical that the element of human hindrance on the part of the French is not overlooked by her. "Never refuse to see them", she tells her children, "even when they will not receive you well".

A critical evaluation of French conduct is revealed also in statements made at an earlier time by the Tatooed-Serpent himself. When asked by Du Pratz whether he was still a friend of the French, he replied that he could not tell. Then, he voiced the following complaints:

Have the French two hearts, a good one to-day, and to-morrow a bad one? As for my brother and me, we have but one heart and one word.

We know not what to think of the French, who, after having begun the war, granted a peace, and offered it of themselves; and then at the time we were quiet, believing ourselves to be at peace, people come to kill us, without saying a word.⁵³

Similar native judgments are recorded not only by Du Pratz but also by Dumont, and many more no doubt were made and could be cited here if they had been carefully put down by early observers. There is little doubt moreover that the same kind of judgments were set forth by the Natchez in directing the moral behavior of their own tribal members. But, unfortunately, testimonial elements as to how they actually enforced their moral code are completely lacking. It is only by inference, therefore, that any conclusions can be drawn in this particular respect.

One factor which always plays a part in enforcing the moral code of a given community is the desire to stand well in

⁵³ Du Pratz, *op. cit.*, I, 203.

the eyes of others. Adjustment of the individual to public opinion is practically inevitable. Equally necessary and inevitable are conformity to established customs and the instruction of the young in these customs, no matter what the amplitude of deviation may be. Among many peoples, moreover, legendary sanctions of antiquity, a divinity, or both are traditionally sustained and widely used to control moral conduct. In the case of the Natchez, as has already been pointed out, it was more the sanction of antiquity than that of a divinity which helped them to enforce their moral code. Yet, the probability that religion, especially the belief in a hereafter, played an important part is indicated in the following bit of documentation which, although recorded by an early missionary, reveals a conception of life in the next world which can be regarded as typically native. According to Le Petit, the missionary in question,

... they think that those who have been the faithful observers of their laws will be conducted into a region of pleasures ...
... the violaters of their laws will be cast upon lands unfruitful and entirely covered with water, where they will not have any kind of corn, but will be exposed entirely naked to the sharp bites of the mosquitoes, that all nations will make war upon them, that they will never eat meat, and have no nourishment but the flesh of crocodiles (alligators), spoiled fish, and shellfish.⁵⁴

A legitimate inference, finally, can be made about the existence of a special class of moral guardians. For the Natchez, in addition to their chiefs and nobles, had certain old men whose task it was to preserve "the ancient word" and "make good use of it". The fact that only certain elders were entrusted with this task is apparent from the following:

What contributes much to preserve it in all its purity is that they do not teach it to all the young people indifferently. This tradition is all their science and the only authority on which they are able to base their reasonings. This is why reasoning makes them vividly conscious of the fact that they ought not to waste this treasure, and that the surest means of preserving it unaltered is not to intrust such a precious deposit to people who have not the prudence necessary to make good use of it, or who in a little while would entirely deform

⁵⁴ Thwaites, 1900, LXVIII, 130-131.

it by additions or by omissions equally unfortunate for the truth. They therefore choose for this purpose those among the youths of whom they had the best opinion in order to teach them past things.⁵⁵

That the Natchez took the transmission of their ancient tribal wisdom from one generation to another quite seriously is also revealed in the respect and envy which one of their members, a temple guardian, had with regard to the "speaking stuff" of the French. Referring to their literary achievement, he regards them as fortunate indeed to be able to retain "beautiful things" in books. For they, themselves, unlike literate mankind, had to depend upon memory.

CONCLUSION

Brief as the foregoing study has been, and in spite of the scarcity of source materials, the following points pertaining to the moral resources of the Natchez have become substantially clear:

Firstly, the evidence furnished by early missionaries is for the most part negative, whereas that set forth by two French officials, Du Pratz and Dumont, is highly exaggerated and above all lacks scientific formulation.

Secondly, native testimonial elements which seem to have been faithfully recorded by Du Pratz bear witness to the presence of a traditionally sustained code of ethics. They also reveal a conventional observance of the prohibitions contained in this code. Even a critical morality is indicated by the fact that native ethical thinking was applied to the behavior of the French by several leading members of the tribe.

Thirdly, the intellectual content of the code is deeply rooted in cultural reality rather than a metaphysical or supernaturalistic scheme. For such basic human needs as a better government and a more peaceful way of life are emphasized. Only the origin of the code is shrouded in a legend.

Fourthly, the primary sanction for native morality was antiquity. But fear of punishment and the anticipation of rewards in a strictly dichotomized life after death also provided important

⁵⁵ Du Pratz, *op. cit.*, II, 320-321.

motives for moral action. And a special group of elders, whose task it was to preserve the ancient wisdom of the tribe, appear to have been the chief moral guardians.

Thus, in direct contradiction to claims set forth by most early missionaries and the statements made by many later historical writers, the Natchez did not lack any moral aspirations. The material which has been brought together in the present study can leave no doubt in the mind of an impartial student of ethics that this particular Indian tribe had a fairly well-established code of morals. Furthermore, to anthropologists trained in a functional, pragmatic viewpoint it should be clear that there is no reason for an abdication of their science from the realm of ethics.

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THE NAMES "FALSE RIVER" AND "POINTE COUPÉE": AN INQUIRY IN HISTORICAL GEOGRAPHY¹

By HILGARD O'REILLY STERNBERG

False River is a large ox-bow lake, the southernmost cut-off channel as yet recognized on the latest course of the Mississippi, a river which has occupied, through the milleniums, many different positions in its alluvial valley. The settlement fringing the lake and that which peopled the banks of the Mississippi immediately upstream became, under French rule, the nucleus of the political unit known today as Pointe Coupée Parish.

The vast majority of historical writings thus far have attributed the formation of the lake to human interference, viz. to a trench dug across the slender pedicle of a meander loop, severing the old circuitous channel from the present-day course of the river. The several versions seem to have been derived from the accounts of Iberville's ascent of the river in 1699, during which the travellers actually did clear a passage for their boats across the neck of land. The short cut taken by Iberville's group, however, followed a trough already scoured by flood waters and, in a previous paper,² the writer has attempted to demonstrate that the cut-off was not artificially induced or even accelerated, but merely one more example of the geomorphological activity of rivers flowing in erodible alluvial sediments.

Origin of the name False River. The designation False River, a recent version of the French Fausse Rivière,³ undoubtedly originated after the cut-off process had been completed and the old meander loop was at least partially sealed off by sedimentation at its upper and lower ends. A large portion of the old channel

¹ Upon undertaking the geographic study of the False River area, in partial fulfillment of the Ph.D. requirements at Louisiana State University, it was deemed appropriate to ventilate certain historical aspects of the theme, such as the points considered in the present paper. Grateful acknowledgment is made for the criticisms and suggestions of Dr. Richard J. Russell, Head of the Department of Geography at the Louisiana State University.

² Hilgard O'Reilly Sternberg, "The Pointe Coupée Cut-off in Historical Writings," in *Louisiana Historical Quarterly*, XXVIII (1945), 69-84.

³ The Mississippi River Commission still employs both names. Thus, for example the New Roads Quadrangle, 1:62,500, War Department, Corps of Engineers, edition of 1936, we find "False or Fausse River".

remained unfilled with alluvium; the arcuate lake which occupies this portion has approximately the same average width as the Mississippi, and its curvature is not unlike that of other sinuosities characteristic of this river. Were it not for a noticeable lack of current, False River even now might be taken for a part of the Mississippi. For a number of years after the cut-off had been completed, flood waters certainly continued following the abandoned channel, and the current they produced should have enhanced the similarity.

This fact is well brought out by a short excerpt from Flint. Referring to the cut-off, he states: "... when these changes take place the mouth of the ancient course of the river becomes choked; and long lakes are formed 'fausses rivières', which, at the season of high water might be mistaken for the river itself. . . ."⁴

The existence of ox-bow lakes in close proximity to the Mississippi is common, and as such False River is in no way unique. The fact, however, that the medial portion of this body of water, separated from the river at least as early as 1719,⁵ remained open to this day, without any appreciable narrowing of the channel, is rather exceptional.⁶ Some cut-off meanders are entirely filled in and dry; others, as for example Duck Pond Swamp, below Helena, Arkansas, are reduced to curving strips of swampy ground; not a few survive only as small, irregular patches of open water; and there are some that, although constituting continuous bodies of water (lakes or bayous), having approximately the same curvature as the older meander, have had their channels withered to a third, a quarter or an even smaller fraction of the original width.

⁴ Timothy Flint, *The History and Geography of the Mississippi Valley* (Cincinnati: E. H. Flint and L. R. Lincoln, 1832. Second Edition), I, 102.

There is obviously no affinity between such ox-bow lakes and the features designated as *fausses rivières* by Belgrand in his study on the Seine River (*La Seine, Etudes hydrologiques*, Paris, 1872, quoted in A. de Lapparent, *Traité de Géologie* I, Paris: Masson et Cie., 1900, p. 186). This writer referred to the drainage along bluffs at the edge of floodplains; to such streams, geographers in Louisiana have applied the appellation "rim swamp streams" (See, for example, Richard Joel Russell, "Louisiana Stream Patterns," in *The Bulletin of the American Association of Petroleum Geologists*, XXIII, No. 8, August 1939, p. 1224).

⁵ Sternberg *loc. cit.*, XXVIII, 84.

⁶ For another and (because of its distance from the present Mississippi) more striking example of the preservation of cut-off lakes, see Richard Joel Russell, "Larto Lake, An Old Mississippi River Channel," in *Louisiana Conservation Review*, III, No. 3, July 1933, pp. 18 ff.

The rapidity with which abandoned channels are effaced may be roughly gauged by an inspection of some recent cut-offs, chosen at random. Observe, for example, on the 15th (1947) edition of *Maps of the Mississippi River; Cairo, Illinois, to the Gulf of Mexico, Louisiana*,⁷ the present condition of Rowdy Bend (cut off in 1935), or Bachelor Bend (cut off in 1933), both in the vicinity of Greenville, Mississippi; Albemarle Bend (cut off in 1934), between Lake Providence, Louisiana, and Vicksburg, Mississippi; Bolivar Bend (cut off in 1937), above Arkansas City, Arkansas; or Paw Paw Bend, severed from the main channel in 1934, above Vicksburg—the obvious channel deterioration indicates that it was through a set of special circumstances, the examination of which is not the object of the present paper, that False River was spared from any considerable alluviation, thus justifying the conservation of its original designation, while other “fausses rivières” were slipping into oblivion.

Origin of the name Pointe Coupée. The name *Pointe Coupée*, which means “cut point”, does not possess such a manifest birth certificate as that of False River. It is hard to decide whether the name *Pointe Coupée* was given by virtue of the short cut taken by Iberville or as a result of the Mississippi cut-off.

Some writers are of the opinion that Iberville and his men, having found a passage across the neck of a point in the river, called this *pointe coupée*.

Other writers believe the name to have originated with the cutting through of a point by the Mississippi, as this river took a more direct course. The analogy with other natural river cut-offs which (for a time at least) bore the name *Pointe Coupée* inclines the present writer to favor this interpretation.

In any case, it is interesting to note that the name *Pointe Coupée* came to designate a settlement upstream of the point actually crossed by the travellers and severed by the river; the position of the primitive *Fort de la pointe Coupée* on an uncut point immediately above, but not encircled by, False River may be seen, for instance, on Broutin's map,⁸ drafted in 1731.

⁷ Vicksburg: Mississippi River Commission, Scale 1 62,500.

⁸ “Carte du Bassin inférieur de la rivière rouge à l'origine de la colonisation,” in M. Thomassy, *Géologie pratique de la Louisiane* (Nouvelle-Orléans, 1860), after p. 226. The fort of the “pointe Coupée” was not established on the point actually cut through, but immediately upstream of same. The settlement spread from this site—especially, upriver, so that on later maps (such as Collot's, for example, it is shown extending to the concave banks of the second bend upvalley.

The transition of descriptive expressions, such as *pointe coupée* or *fausse rivière* into proper nouns. *Pointe Coupée* is now a proper noun and is associated with a definite geographical locality. The same might be said of *Raccourci*, or *Fausse Rivière*. *Pointe Coupée*, *Raccourci* and *Fausse Rivière* were originally used as attributes; for this reason they were applied to several localities on the Mississippi River and its tributaries. Thus, for example, the designation *pointe coupée* occurs twice on Dumont's map.⁹

In order that future students may be spared some trouble in following up false clues, it is thought advisable to give a few examples of the possible confusion resulting when descriptive expressions are employed as proper nouns to designate more than one place.

The fact that the river tends to oscillate within certain limits, lopping off bends as they grow, produces a number of cut-off points. Such a point was quite naturally referred to as a *pointe coupée*.

In our day, the name "*pointe coupée*" designates a parish in Louisiana. Even before the area received a formal designation and was given political boundaries, the name was linked with the area along the Mississippi River, north of the present site of New Roads. The unwary reader, upon finding reference to a *pointe coupée* in some ancient chronicler, may be led to suppose erroneously that the statement refers necessarily, if not to the present parish of *Pointe Coupée*, at least to the old settlement on the Mississippi opposite the mouth of Bayou Sara. Such misleading references are numerous.

Father Gravier, of the Society of Jesus, descending the Mississippi in 1700, states in a letter to Father Lamberville: "They count 60 Leagues from the Kappa to the River of the *Toumika*; And on the 3rd day we passed the *pointe coupée* [Italics not in the original], which is half way."¹⁰ The "River of the *Toumika*"

⁹ See "Dumont's Map of the Chickasaw and Choctaw Country," in Justin Winsor, *The Mississippi Basin: Struggle in America between England and France, 1697-1763* (Boston and New York, 1895), 265. The designation "*Pointe coupée*" appears not only at the site of present-day *Pointe Coupée* Parish, but also upstream, between the Arkansas and Yazoo rivers.

¹⁰ Reuben Gold Thwaites, editor, *The Jesuit Relations and Allied Documents* (Cleveland: The Burrows Bros. Co., 1896-1901), LXV, 125. Also John Gilmary Shea, editor, *Early Voyages up and down the Mississippi . . .* (Albany: J. Munsell, 1861), 131. Shea's spelling does not respect the original spelling.

(Tunica) has been identified as the Yazoo River.¹¹ This particular *point coupée* was about thirty leagues above the Yazoo River.

Father Charlevoix, in a letter from Natchez dated December 25, 1721, tells how on the fifth day after passing the first or upper mouth of the Arkansas, *i. e.* December 8, 1721, he pushed on to the cut point: "je poussai jusqu'à la *pointe coupée*".¹² This example of a cut-off point is also situated above the Yazoo River and is not related to the one with which we are concerned.

Still later in the 18th century, an anonymous French officer set down in his journal the fact that nine days trip above the Yazoo River he passed "what is called 'the small *Pointe Coupée*'".¹³

Le Page du Pratz also notes a Great Point Coupée. Like the three foregoing examples, this cut point is also located between the Arkansas and the "Yasoos" at about twenty leagues, it would seem, above the Yazoo River.¹⁴

The fact that these statements refer to the same general vicinity need not lead one to suspect that they refer to the same cut-off. If, however, this were the case it would be interesting to speculate why the same cut-off was called "small" by the anonymous French officer and "great" by Le Page du Pratz.

That not all cut-offs on the Mississippi were called *pointe coupée* is an established fact. Inversely, that not all *pointes Coupées* are cut-offs on the Mississippi is equally evident. If an example were necessary, Bayou Pointe Coupée would supply it. This bayou (whose waters flow successively through Devils Creek, Comrade Creek and Cypress Bayou into Calcasieu River, which empties into the lake of the same name) is in Western Louisiana and entirely outside Pointe Coupée Parish.

¹¹ John R. Swanton, *Indian Tribes of the Lower Mississippi Valley and Adjacent Coast of the Gulf of Mexico* (Smithsonian Institution, Bureau of American Ethnology, Bulletin 43, Washington: Government Printing Office, 1911), 308-309.

¹² Pierre Francois-Xavier de Charlevoix, *Histoire et description generale de la Nouvelle France* . . . (Paris: Chez Rolin Fils, Libraire Quai des Augustins, à S. Athanase, MDCCXLIV), III, 412. Also in B. F. French, editor, *Historical Collections of Louisiana* (New York: Wiley and Putnam, 1846-1853), III, 128-129. Translation is not faithful to details: "La Pointe Coupée" instead of "la Pointe coupée".

¹³ J. F. H. Claiborne, *Mississippi as a Province, Territory and State, with Biographical Notices of Eminent Citizens* (Jackson, Miss.: Power & Barksdale, Publishers and printers, 1880), I, 70. Transcription of journal of officer who arrived from France in 1739, with the troops under M. de Nouaille and who accompanied the expedition to the Chickasaw bluffs, which has been translated from a MS. obtained in Paris by Col. B. F. French.

¹⁴ Le Page du Pratz, *Histoire de la Louisiane* . . . (Paris: De Bure, 1758), I, 151.

Similar considerations apply to the designation False River. When today this name is mentioned in Louisiana, one thinks immediately of the arcuate lake in Pointe Coupée Parish. That this was not always the case, is revealed by Audubon, who as late as 1821 tells of a "famous bayou . . . called False River" which "discharges its waters not far from the mouth of the Yazoo River."¹⁵ This False River is located on the eastern bank of the Mississippi and is far from the False River under consideration.

It seems worth mentioning that there is even a locality called False River, south of Bayou Fordoche and about seven and a half miles away from False River, to which this lake is obviously unrelated.

The French noun *portage* might be cited as another example in this matter. A bayou in the False River area bears this name. In a land where transportation was carried on mainly by water, it is not surprising to count six different streams called "Bayou Portage" in the State of Louisiana.¹⁶ The difference between the names Pointe Coupée and False River, on the one hand, and Bayou Portage, on the other, is that where the two former became practically restricted to and synonymous with one definite locality, the latter still officially designates a half dozen different streams.

Variations in orthography; translations. Both translations and corruptions of the original expression, *Pointe Coupée*, have crept into various languages.

During the Spanish domination, a simple translation gave the expression *Punta Cortada*, which was the most frequent one in Spanish writings of that period. Alongside this perfectly legitimate translation, we may note a number of corruptions.

It is possible to group the Spanish distortion of the name under consideration into two classes: (a) a corruption of the original French expression; (b) a corruption of the Spanish translation itself.

¹⁵ Maria R. Audubon, *Audubon and His Journals* (New York: Charles Scribner's Sons, 1899), II, 260. The reference is in "The Cougar" (1821).

¹⁶ List of Waterways of Louisiana District. Chief of Engineers. *House Documents*, 63 Cong., 2 Sess. (1913-14), XX, Part 1, Vol. 1, p. 681.

Punte Cupé or *Punté Cupé*¹⁷ and *Ponte de la Coupe*¹⁸ are examples of the first class, whereas *Punta Corta*¹⁹ and *Puerto Cortado*²⁰ exemplify the second class.

That there was no rigid uniformity in usage is proven by the fact that the same individual indifferently employed more than one form of naming the same place. Thus, for example, Unzaga y Amezaga employs both *Punta Cortada*²¹ and *Puen [sic] Cupe*.²²

The thirty odd years of Spanish domination were not enough to substitute the designation *Pointe Coupée* and when, in 1800, the colony was retroceded to France, only to be purchased by the United States in 1803, the original French expression still prevailed.

Anglo-Saxon writers have commonly dropped the final "e" from *Pointe*—a simple way of anglicizing this word—and the usual absence of a type to represent the *accent aigu* has probably concurred in changing the second term of the expression.

Anglo-Americans unacquainted with the French language, upon seeing the word *Coupée*, would quite naturally pronounce it to rhyme with *tee* or *fee*. As this sound was again set down on paper, it was quite often spelled *Coupie*; consequently *Point Coupie* is quite frequently found in English writings.

The hazards through which the name *Fausse Rivière* has passed are analogous to those described for *Pointe Coupée*. The Spanish *Falsa Ribera* or *Rio Falso* did not displace the French *Fausse Rivière*.

¹⁷ Letters from De Mezieres to Unzaga y Amezaga dated February 1, April 30, and June 10, 1770, cited by Herbert E. Bolton, *Athanaze de Mezieres and the Louisiana-Texas Frontier* (Cleveland: The Arthur H. Clark Co., 1914), I, 146, 158, 176.

¹⁸ Orthography used by Caroline Maude Burson, *The Stewardship of Don Esteban Miro, 1782-1792* (New Orleans: American Printing Co., 1940), 254. In Favrot's spelling with the indication "Favrot Papers" Journal No. 252, August 1792.

It must be noted, however, that in the "Journal of a Voyage from New Orleans to Natchez," by Pedro Favrot, the expression *La Pointe Coupée* is found under the date August 6, 1792, on page 144, volume III, of the so-called "Favrot Papers". These are "Transcriptions of manuscript collections of Louisiana," prepared by the Historical Records Survey, Division of Professional and Service Projects, Works Projects Administration (New Orleans: Louisiana State Museum, 1940).

¹⁹ Inventory of property of Jacob Femmié of Fort Bute Manchac, dated June 3, 1782, Archives of the Spanish Government of West Florida, Survey of Federal Archives, Translations and Transcriptions, Vol. I, p. 3. Another example is found in Charles Trudeau, Surveyor General, Book A, No. 3 (Part 2), British and Spanish Grants, Notices and Evidences in Written Claims before Cosby and Skipwith, 1819-1820. Greensburg Land Claims. U. S. Land Office Archives, Baton Rouge, La., p. 93 (written July 13, 1798). There is a possibility that we have to deal with an omission due to carelessness of the final *da* of *Cortada*. However, "corta" means "short" and might be used: "Punta Corta" meaning "Short Point".

²⁰ Mentioned in a Legal Action started in 1779 by Leonor Monsanto, native of *Pointe Coupée*. Index to the Spanish Judicial Records of Louisiana, in *Louisiana Historical Quarterly*, XVII (1934), 391-392.

²¹ Luis de Unzaga y Amezaga, in Dispatches of Spanish Governors of Louisiana Survey of Federal Archives in Louisiana. Book 1, Vol. III, p. 35.

²² *Ibid.*, Book 1, Vol. II, p. 57.

Fausse Rivière was apparently not yet widely used in the early 1730's, for both Broutin's map (1731)²³ and d'Anville's map (1732)²⁴ give *Ancien Cours du Fleuve*.

The English form *False River* was employed at least as early as 1765 by Lieutenant Ross with the additional annotation, *Ancient Course of the Mississippi*.²⁵

Some Anglo-Saxon writers and cartographers have preferred to maintain the French spelling. This is the case of Tanner (1820),²⁶ and Humphreys and Abbott (1861).²⁷

The local French tradition, nevertheless, has been powerless to stem the change. Infiltrating under such hybrids as "Fausse River", employed recently by Elliott,²⁸ for example, the adoption of the English form is only a matter of time.

In conclusion, it must be noted that some of the variations recorded may actually represent mere mistakes overlooked by typists, printers, copyists, or even original writers.²⁹ Unless the expression appears frequently in different writers, as *Punta Cortada*, one should be wary of concluding that it enjoyed widespread use.

²³ *Ibid.*

²⁴ Jean Baptiste Bourguignon d'Anville, *Carte de la Louisiane*. Dressée en Mai 1732. Publiée en 1752.

²⁵ *Course of the River Mississippi from the Balise to Fort Chartres, taken on an expedition to the Illinois in the latter end of the year 1765 by the Lieut. Ross of the 34th regiment: improved from the surveys of that River by the French . . .* (London: Printed for Robert Sayer, 1776).

²⁶ May of Louisiana and Mississippi, four parts.

²⁷ Map of the Alluvium Region of the Mississippi. War Department, 1861. Scale 1:1,500,000. Plate II of *Report upon the Physics and Hydraulics of the Mississippi River* (Washington: Government Printing Office, 1867).

²⁸ D. O. Elliott, *The Improvement of the Lower Mississippi River for Flood Control and Navigation* (War Department, Corps of Engineers, U. S. Army. Vicksburg, Miss., 1932), III, Plate VI (h).

²⁹ This, for example, quite obviously seems to be the case of *Puen*, mentioned above.

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THE ROLE OF THE BARON DE BASTROP IN THE ANGLO-AMERICAN SETTLEMENT OF THE SPANISH SOUTHWEST*

By R. WOODS MOORE

CHAPTER I

INTRODUCTION

History is a drama which reveals the evolution of man and the development of the cosmos of which he is a part. Since in the lives and deeds of representative men the reactions of mankind to the social, economic, and political environment of any epoch have found expression, historians have long centered the events of all great movements around the deeds of those principal characters who were by chance able to crystalize the forces at work in the world and direct them to definite ends. Certain men, therefore, loom large on the horizon of the past; others, regardless of how necessary their work might have been to the success of these movements, have passed into oblivion.

In the history of Texas, such names as Austin, Houston, and Travis have their places and should be perpetuated; but without the work of a soldier of fortune whose name is practically unheard and whose deeds are unsung, those names might never have been written in the annals of the Southwest. It was the Baron de Bastrop whose years of patient waiting and cheerful service placed him in the position to hand to those men, the "Open Sesame" to Texas, which was then the *sine qua non* of peaceful penetration of the Spanish Southwest by the Anglo-American Pioneer.

Felipe Enrique Neri, Baron de Bastrop, was perhaps the most picturesque character in early Texas history. About the man and his deeds there hovers a veil of mystery that defies the prying investigation of the historian. Of his personal life almost nothing is known. Enough suspicion surrounds the man to make his story romantic, and enough tragedy is evident in his life to make

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him a pathetic figure in history. There is enough inconsistency in the facts that are known about him to arouse curiosity, and there is enough that is not known to invite much speculation.

Nothing is more suggestive of the man than his name and title. Felipe and Enrique, his given names, are not at all unusual. The average English-speaking student of Spanish translates these names into "Philip" and "Henry", and is aware of the fact that they occur under different translations in languages other than either English or Spanish. The name Neri might have been assumed by Bastrop after his arrival in Spanish territory, might have been his true surname of Italian origin, or it could have been one of his given names, as it occurred frequently as such in Catholic baptismal names.

The title Baron de Bastrop, is decidedly French; but one here finds an inconsistency. Was it through ignorance of the grammar, usage, and construction of the Gallic language that he combined the two one-syllable words which composed the word "Bastrop" in inverse order, or did he wish to be original? Evidently the title, if it meant anything at all, might be translated "Baron of the Lowlands"; for it comes from "trop" meaning too, and from "bas" meaning low. French usage would have dictated that they be put together so as to form the word "Tropbas".

In the case of Bastrop, then, we have a man with teutonic features who claimed to be Dutch, bearing a French title, a Spanish name, and a suspicious reputation. Such a character might be subject to no close scrutiny in a work of fiction, but such inconsistency in a character of history is rarely found. Who this man was, where he came from, the circumstances under which he spent his early life, and the nature of the purposes which induced him to undergo the hardships of pioneering in the wilds of the Spanish-American frontier, are questions that might baffle an astute historian; but his work was of such importance, and the results of his labors so evident, that what he actually accomplished in the interest of the settlement of the Spanish-Southwest by Anglo-Americans can be easily pointed out by the casual student.

Historians have offered various explanations as to his identity. Bancroft says:

I, Felipe Enrique Neri, Baron de Bastrop, native of Prussia, and served as a soldier of fortune under Frederick the Great. He afterward entered the service of the king of Spain who sent him on a special mission to Mexico. . . .¹

¹ Hubert Howe Bancroft, *North Mexican States and Texas* (San Francisco, 1889), II, 57, footnote.

Gayarré believed that he was a French nobleman;² and some of the Spanish officials believed that he was an American adventurer.³

Bastrop, however, gives the following account of his early history:

I Felipe Enrique Neri, Baron de Bastrop, native of Holland in Europe, more than sixty years of age, legitimate son of Conrado Lorenzo Neri, Baron de Bastrop, and Donna Susana Maria Bray Banguin. . . . I declare that I have been married in facie ecclesie with Donna Georgina Wolfeling Francisca de Lyklama-Neyholt, legitimate daughter of Don Augustin Lyklama-Neyholt Nohynlandsberger. . . . and by this marriage four daughters and one son were born to us. It has been several years since I saw any of them. . . .⁴

Which of these statements is true, whether any one of them is true, are problems that the writer of this thesis does not propose to solve. They are presented only to throw some light upon the difficulty of writing a general biographical sketch of the Baron de Bastrop. In the succeeding chapters an attempt will be made only to set forth the nature of the man's work with an effort at showing its relations to the colonization of the Southwest by Anglo-Americans.

The facts, presented in the hope that they will somewhat picture the life and incidents that were characteristic of the receding Spanish and Mexican frontiers, have been taken almost entirely from documentary source materials in the archives of the University of Texas. Such few general sources are available in this field that it is difficult for the student of history to get the general background of the characters and events that shaped the history of the declining civilization of Spanish origin in the great Southwest without painstaking search in original documents, a process which is comparatively tedious and slow.

Specific sources from which the bulk of the materials used in the preparation of this thesis came are:

A compilation of the letters, memoranda, and notes of Stephen F. Austin and his contemporaries, which is the work of Dr. E. C. Barker of the University of Texas, who edited this matter under the title of *The Austin Papers*. In this series of

² Charles A. Gayarré, *History of Louisiana* (New York, 1854), III, 353.

³ Onís to Secretary of State, April 12, 1819, in Dunn Transcript, Archivo General de Indias, "Audiencia de Santo Domingo," 1763-1818, in Archives of University of Texas.

⁴ Bastrop's Will, January 16, 1827, in E. C. Barker (Editor), *The Austin Papers*, I, 1581.

books is found the material that pictures more of the personal side of the Baron de Bastrop than is seen in the more formal documents in the Spanish archives.

The Bexar Archives, a collection of original documents which accumulated in the ayuntamiento at Bexar during the Spanish and Mexican periods. From this source, most of the facts concerning Bastrop's activities between 1805 and 1821 are taken.

Archive General de Indias, transcripts of documents that were in the archives of the Spanish province of Louisiana and Texas. Most of the facts concerning Bastrop's activities in Louisiana are gathered from this source.

Numerous other sources were used, but the bulk of the material used in the preparation of this thesis came from the sources listed above.

The specific purpose of this work is to present the activities of the Baron de Bastrop in the Spanish provinces of Louisiana and Texas before those provinces passed into the possession of the United States. It is an attempt to reveal the work of the man rather than to write a biographical sketch, but, in so far as possible, the writer has brought in as much of the personal side of the Baron as he has been able to find. Special emphasis is placed on the relations between the Baron's work and the cause of Anglo-American settlement of the Spanish Southwest.

CHAPTER II

THE OUACHITA SETTLEMENT, 1795-1806

General Conditions in the Spanish Province of Louisiana

The Spanish province of Louisiana in 1795 furnished one of the most romantic and fertile fields for adventure that the heart of any soldier could wish for. It had long been a rendezvous for that element so characteristic of the frontier. Traders of various nationalities trafficked among the Indians there in spite of the fact that the Spanish laws, in theory at least, forbade foreigners to trade; various tribes of Indians occupied the more remote parts of the province; settlers seeking an opportunity to mend their fortunes, and some of them to forget their past, were gradually clearing the wilderness; and outlaws and adventurers of various nationalities and designs gathered there both to evade the law

and to hatch their plans for the accomplishment of illicit purposes varying in nature from mere raids on commerce to the dismemberment of nations and the erection of empires.¹

The province, because of its loose military government, seems to have attracted at one time or another most of the characters whose vague plots and suspicious acts gave them such notoriety as to place their names in the annals of the history of the United States. Such men as Wilkinson, Burr, and Nolan have done much to lend color to the history of Louisiana, their activities furnishing some of its most romantic chapters. Such men as Bowles and McGillivray whose power as a result of the high places they held in the councils of their respective Indian tribes enabled them to play England, France, Spain, and the United States against each other as well as to wring concessions from each of them, were powers to be reckoned with.² The governors themselves were not above intrigue, their attempts at bribing and otherwise conniving with outlaws to accomplish ends both personal and political no doubt being in no small degree responsible for its attractiveness to men of shady character and purposes.

From the time that the Spanish monarch received the territory from France in 1765³ until it passed into the hands of the United States on December 20, 1803, Spanish governors of Louisiana found themselves confronted with many intricate and difficult problems of administration.⁴ In the beginning of the Spanish period its population was largely French; and as late as 1794, Carondelet, Governor of the Provinces of Louisiana and West Florida, reported that the French influence dominated there, a condition, he continued, that made it extremely difficult to govern because of the animosity of the people toward Spanish rule.⁵

In 1795, however, a menace for graver than internal dissension was apparent to Carondelet. The westward movement of American pioneers seemed destined to fill the Missouri and Illinois territories with a bold frontier population that would

¹ J. N. Larned, *The New Larned History*, Revised by D. E. Smith and Others (Springfield, Massachusetts, 1923), VI, 5318-5326; Louis Houck (Editor), *Spanish Regime in Missouri* (Chicago, 1909), I, II, *passim*; Gayarré, *History of Louisiana*, I, II, and III, *passim*.

² Gayarré, *History of Louisiana*, III, 315-321.

³ Louis XV ceded the territory to the Spanish crown in 1762. Formal cession was made by the Treaty of Paris, February 10, 1763, but the cession was kept secret until July 10, 1765. Larned, *The New Larned History*, VI, 5223.

⁴ Spain retroceded the province to France October 1, 1800, by the Treaty of St. Ildefonso, which was renewed in all its disposition on March 21, 1801; then on April 30, 1803; France sold it to the United States to whom it was formally conveyed December 20 of the same year.

⁵ Gayarré, *A History of Louisiana*, III, 373.

eventually pour over the Louisiana boundary a sufficient number of settlers imbued with ideas and sentiments of democracy and Protestantism, as well as loyalty to the United States, to overthrow Spanish authority, or, in any case, dominate the province to the detriment of Spanish customs and institutions. Carondelet, who was appointed Civil and Military Governor of Louisiana and West Florida in 1792, is described by Houck as "loyal to Spain, progressive, active and an able statesman."⁶

Carondelet, immediately after his appointment, had instituted reforms in the municipal government of New Orleans, had begun the construction of the canal that now bears his name, and had planned the strengthening of the military defenses of the province. By 1795 he had shown considerable progress; and it was now that he turned his attention to the problem of saving the territory from the impending incursions of the American settlers. To weaken the power to the North, Carondelet first sought to divide it. His predecessors had long sought to use General Wilkinson as a mere tool by which the trans-Alleghany West could be separated from the United States and erected into a weak buffer state against American aggression. It was to this scheme that Carondelet first gave his attention.⁷ Thomas Power was sent to the United States, to determine just what Wilkinson could be depended upon to do, and also to learn anything he could about the American attitude toward Spain and its possessions.

In the meantime, he turned his attention to other expedients. In a report to the crown concerning the gravity of the situation Carondelet said:

This province, which is open on all sides, and which from the date of the administration of my immediate predecessor to the present day, has not ceased to be threatened by the ambitious designs of the Americans. . . .⁸

He continued his discourse by pointing out the fact that the posts at Natchez and Nogales were founded and settled by American immigrants; that in the recent internal disturbances in the province these people had remained loyal to Spain, had done much to counteract the French sentiment in the province; and that they then stood as a bulwark against both French and

⁶ Houck, *Spanish Regime in Missouri*, II, 354 [sic]. (This citation is erroneous.—Editor.)

⁷ Gayarré, *History of Louisiana*, III, 360.

⁸ *Ibid.*, III, 332-333.

American aggression. This indicates that Carondelet, as early as 1794, had fully determined upon colonization as a solution of the problem that confronted him.

The policy of colonization as a means of counteracting the pending American invasion was not a new one. From the administration of Galvez, 1777-1783, governors of the province had sought to promote colonization schemes of various sorts in the hope that the country would develop and its inhabitants remain loyal to Spain, thus setting up a barrier against peaceful penetration by undesirable American pioneers.⁹

The year 1795 seems to have been a propitious time to promote colonization in the province. Gayarré says:

The revolution in France had been favorable to the increase of the population of Louisiana, which had been recruited by the arrival of some French Royalists, who had fled from the anger of their former vassals. Such emigrants were acceptable to the crown of Spain, and among the most conspicuous were the Marquis de Maison Rouge, the Baron de Bastrop, Jacques Ceran de Lassus de St. Vrain. . . .¹⁰

Coming at the time that Carondelet was desirous of promoting rapid colonization in the colony, these refugees from the ravages of the French Revolution met with a warm welcome, as they proposed to bring there a number of their fellow-sufferers who were at that time seeking a haven in the United States.

On March 17, the Marquis de Maison Rouge proposed to establish such a colony. Carondelet entered into a very liberal contract with him. It was agreed that Maison Rouge was to bring in thirty families, the government bearing the expenses of transportation, and paying two hundred dollars to each family in which there were two laborers competent to engage in agricultural labor or useful arts; those with four such laborers were to receive four hundred dollars; four hundred square arpents of land were to be given each family; and seed for the first crop was to be provided gratis.¹¹ Carondelet reported the details of the transaction to Gardoqui, the Secretary of State, who apparently exercised the

⁹ *Ibid.*, III, 105-385, *passim*.

¹⁰ *Ibid.*, III, 353.

¹¹ *House Executive Documents*, 24 Cong., 1 Sess., no. 50, p. 50.

functions of a private secretary to the King of Spain. After laying the proposition before the crown, Gardoqui directed the following letter to Carondelet on July 14, 1795:

Having laid before the king what you have made known in your letter of April 25th relative to the contract entered into with the Marquis de Maison Rouge for the establishment on the Ouachita of the thirty families of farmers destined to the cultivation of wheat for the supply of these provinces, His Majesty, considering the advantages which it promises compared with the cost entailed, has been pleased to approve it in all its parts. . . .¹²

By the terms of the contract thus approved by the crown, 12,000 square arpents of land were granted for the project, and Carondelet's policy of colonization was begun.

Bastrop's Plans and Activities

When Bastrop arrived at Ouachita in September, 1795, he was a refugee from Holland, he said, where he had suffered from the disturbances that had recently occurred there, and he sought the protection of the wise laws of the Spanish Monarch.¹³ He planned to return to Holland for his family as soon as he established himself in the colony. Ouachita, at this time, was a mere outpost which had been established by Juan Filhiol who, according to Bastrop, had laid the foundation for the settlement.¹⁴ He did not ask for any grant or concession immediately after his arrival. In fact, he says, in his undated petition, that Carondelet proposed that he undertake to establish a colony. On June 20, 1796, he formally petitioned the governor, Carondelet, to grant him permission to settle a colony on the Ouachita.¹⁵

The petition in substance sets forth the following specific requests and arguments which were designed to move the government to favorable action:

1. The Baron de Bastrop promises to bring in any number of families the government may set for the purpose of establishing and developing the culture of wheat in this province in order that the needs of this province may be supplied.

¹² Gardoqui to Carondelet, July 14, 1795, *ibid.*, 56.

¹³ Bastrop's Petition for Spanish Citizenship, January 30, 1810, Spain: Archivo General de la Nacion, "Audiencia de Guadalajara", Dunn Transcript, 1800-1818, in Archives of University of Texas.

¹⁴ Undated Petition of Bastrop to the Crown, in Archivo General de Indias, "Audiencia de Santo Domingo", 1763-1818, Dunn Transcript, in Archives of University of Texas.

¹⁵ Carondelet to the Crown, June 16, 1797, *ibid.*, 202.

2. In order that the families may be settled without difficulty and embarrassment, it is necessary that a definite tract of land of about twelve square leagues be designated as a place where the families may be settled without interference.

3. The grants of land should be made to the settlers gratis; and under no pretext should one family be granted more than four hundred square arpents, as to make large grants would encourage the introduction of Negro slaves, which would encourage the cultivation of indigo. This would result in irreparable injury to the plans of the petitioner, who is to invest in a flour mill and engage in the manufacture of flour.

4. In order to develop wheat culture, the petitioner should be permitted to establish mills in which to grind the wheat; and he should be permitted to carry on uninterrupted and unrestrained trade with all points in this providence, and in Havana and other markets of the Spanish dominions.

5. In order to make this project possible, it is necessary that the government bear the burden of transporting the colonists from New Madrid to the Ouachita Post and furnish them with provisions during the first season.

6. It is necessary that those colonists who are not Catholics be granted the same freedom of conscience as is granted the settlers at Natchez and other points in the province.¹⁶

On the following day, June 21, Carondelet entered into a contract with Bastrop in which the above provisions were incorporated substantially as Bastrop had requested. Carondelet placed the number of families to be brought in at five hundred; he agreed to supply the families with provisions at the government's expense during the first six months and with seeds for the first season; and he inserted a clause to the effect that if most of the families had not been brought in at the end of three years, the contract was to become void, the land which had not been settled by settlers who had complied with the terms under which they agreed to settle was to be open to settlement by the first families presenting themselves. Freedom of conscience was granted non-Catholics, but the rites of no other church than the Roman Apostolic were

¹⁶ Bastrop to Carondelet, June 20, 1796, *ibid.*, 206-207.

to be publicly exercised.¹⁷ He issued a decree in which he ordered Don Juan Filhiol to survey the twelve leagues of land, and Bastrop's project was now under way.

The field notes for the plat surveyed by Filhiol were certified by Carlos Trudeau in a document dated June 14, 1797, a copy of which follows:

I, Don Carlos Trudeau, Royal Surveyor for the province of Louisiana, etc. . . . Certify that said plat contains 144 superficial leagues, each league forming a square the side of which is 2,500 toises in length, measure of the city of Paris, following the use and custom of this colony, which is situated at a point on the Ouachita River about eighty leagues above the point where it empties into the Mississippi (known as the Red) River, bordered on the southwest by the eastern shores of that river and the bayous Ouachita, Barthelemy and Siard (as shown by the red line on the map); Bordered on the south by a line drawn east at an angle of sixty-five degrees about three leagues and a mile in length. Beginning at the shore "C" of the Bayou Siard and continuing as far as the height of the junction "A" of the said bayous Siard and Barthelemy, the said point "A" being a basis on the line A. B. of 12 leagues in length parallel with the plane of the Bayou Barthelemy from the point "A" to the end of the twelve leagues which terminates at the point "B" where is the mouth of the creek, Bayou Turniro, the lines D. E. and F. G. being parallel and directed north fifty-two degrees east without allowing for the variation of the compass (8 degrees N. E.). . . .¹⁸

The grant was located in the northeastern part of the present state of Louisiana, Morehouse Parish, on or near the site of the present town of Bastrop, which was named in honor of the Baron.

With reference to the contract Bastrop later said:

Convinced that the petitioner wished to make himself worthy of favors extended him in the name of the crown, Carondelet celebrated a contract with him to introduce 500 families in the Ouachita, to a place indicated by him and where he conducted the first families assuring him as a premium for his devotion, a grant of land which would be just recompense for his expenditures, voyages, etc. . . .¹⁹

He immediately set out for the United States, he continued, where he scoured the western settlements. He made a second trip

¹⁷ Contract entered into by Bastrop and Carondelet, June 21, 1796, *ibid.*, 207.

¹⁸ Certified Copy of Field Notes on Bastrop Grant, June 14, 1797, *ibid.*, 245.

¹⁹ Bastrop's Undated Petition, *ibid.*, 262.

which enabled him to secure colonists and tools for his colony. He gives an interesting account of his return by way of Natchez at the time that the United States was maneuvering its troops on the Spanish border as a threat against the Spanish fort at that place. Here he and his colonists remained a month while they awaited means of transportation. As the boat he expected to come up the Mississippi to transport his colonists never came, he finally bought a barge from the Captain of the Port and continued the voyage to Ouachita, arriving there April 19, 1797, with sixty-four people.²⁰ On May 7 of the same year, less than a month later, another group arrived with a man referred to as Señor Breard. In this group there were thirty-five people; thus the population of Bastrop's settlement was now ninety-nine, including fourteen families, ten unmarried men, one widow, and one Negro slave.²¹

With the first settlers located as a nucleus for further development of the project, Bastrop set about to develop the manufacturing industries he had planned to initiate. On June 12, 1797, he directed a formal petition to Carondelet asking him to grant him in addition to a permit to build one or more mills, as the present and future needs of the colony might dictate, a plat of ground extending six toises on each side of the Bayou Barthelemy from its source to its mouth. The purpose of the grant would be to provide an appropriate place to build the mill or mills. As the Bayou Barthelemy opens into the Bayou Siard, a body of water that he expected to be the avenue through which the products of his mills might reach the markets of the world, he further prayed that it be stipulated that no bridge or other obstruction should ever be placed across it in such a manner as to prevent free navigation. He concluded his request with the following remark:

This request, Sir, will not appear exorbitant, when you are pleased to observe that your petitioner, who will expend in these works twenty thousand dollars or more, will be exposed without these grants, to lose all the fruits of his labors by the caprice or jealousy of any individual, who, being established on this bayou, may cut off the water or obstruct the navigation; not to mention the loss which the province will sustain. . . .²²

²⁰ Bastrop to Morales, June 1, 1797, *ibid.*, 237.

²¹ Carondelet to Morales, June 11, 1797, *ibid.*, 231-236.

²² *American State Papers, Public Lands* (Washington, 1834), IV, 10.

Carondelet apparently thought this petition reasonable; for he, on the same day, issued a decree granting Bastrop everything that he had asked for.²³ Carondelet, however, inserted a clause in the grant providing that in case the mill was not built in two years, the contract was to become inoperative. In the same decree, he ordered Don Juan Filhiol to make the survey.

According to the most reliable evidence available, Bastrop actually built a mill of some sort, but he did not build up a flourishing trade with Havana, New Orleans, and other points, as he had so optimistically expected to do. In 1823 John Nancarrow, as legal representative of Bastrop, filed claim for a tract of land for the Baron on the basis of the grant of June 12, 1797. In the hearing of this claim, John Heberard deposed that he was an employee of Bastrop in 1799 and that to his knowledge the mill was in operation in that year. According to his testimony, Bastrop began building it in 1798; and in 1799 it was grinding wheat.²⁴ The congressional committee to whom this claim eventually passed for final consideration declared in 1825 that the evidence was credible. In their judgment, Bastrop had fulfilled the terms of the contract. They, therefore, recommended that the claim be recognized. Further evidence that the mill must have been built is found in a deed which Bastrop signed on March 4, 1804. In this instrument, he conveyed to John Pierre Landerneau land described as follows: ". . . All the land said Bastrop holds fronting on the upper side of the said Bayou Siard, by forty acres deep, together with all the improvements, &c., except the mill."²⁵ The mill, then, must have been built; otherwise Bastrop would not have taken the trouble to insert such a clause into the deed.

In the same year (1825), however, another committee, in passing on claims in conflict with Bastrop's claims, made an adverse report with reference to Bastrop's title. The opinion of the committee was expressed by Henry Bry in the following words: "Bastrop never made, nor never could erect water grist mills on that Bayou, and this was one of the peremptory conditions of that grant."²⁶

²³ Carondelet's Decree, June 12, 1797, *ibid.*, IV, 10.

²⁴ *Ibid.*, III, 526.

²⁵ *Ibid.*, II, 773.

²⁶ *Ibid.*, III, 532.

In June, 1797, therefore, Bastrop's outlook was rather hopeful. He had been successful in winning the confidence of Carondelet; he had brought in almost one hundred colonists; and though he had only two more years within which to secure the rest of the five hundred families specified in the contract, it was entirely probable that he could have gotten the rest of the necessary number. One of his visionary nature must have looked to the future with sanguine hopes as he viewed the prospects of his venture in the valley of the Ouachita.

It was then that Carondelet sought royal sanction of the agreement he had entered into with Bastrop. It is somewhat peculiar that he had waited almost a year to seek the approval of the crown. He had immediately referred the Maison Rouge contract to Madrid; and in only a few months, he had received a favorable reply. Bastrop's project was similar in every respect to that of Maison Rouge except that the Baron had set out to establish a much larger enterprise. However, Bastrop's undertaking, if successful, should have resulted in much more good to the province. Whether Carondelet doubted the likelihood of receiving the approval of his superiors when the contract was made in 1796, and was waiting until he could report progress before asking for recognition, or whether he took it for granted that there would be no difficulty in getting the contract approved, is not clear.

In any case, he directed a letter to Gardoqui, a year later, attempting to get the crown to approve the contract. He went into detail concerning the grant, and made a forceful plea for its approval. He began by saying:

One of the objects which to me appeared the most essential after the cession of the posts Natchez and Nogales to the United States was the establishment in front of Natchez of a post capable of curbing and preventing the frequent incursions of not only the Savages of the west bank of the Mississippi, but also the infinitely more dangerous ones of the Americans who are working the mines on the West Bank. . . .²⁷

He pointed out the particularly strategic significance of the post at Ouachita, declaring that it was just opposite the two points in question, and therefore lent itself admirably to furnishing a

²⁷ Carondelet to the Crown, June 16, 1797, in *Archivo General de Indias*, "Audiencia de Santo Domingo," 1763-1818, Dunn Transcript, in *Archives of University of Texas*, 202.

bulwark against American invasion, which was the one danger that had been the source of most of Carondelet's worries. It was in his anxiety for the security of the province, Carondelet said, that he embraced the proposals of the Baron, whom he described as "well born" and of such circumstances as to fit him to procure the five hundred families.

Continuing his discourse on the American menace, he viewed with alarm the greatly accelerated westward movement of the American population which, he said, had since the recent treaty between the Spanish government and that nation doubled the population of the points just across the border. He climaxed his argument by declaring that if Louisiana was to remain under the rule of "His Catholic Majesty" the policy of counter colonization was indispensable. Such a fervent argument within itself should have moved the crown to action.

To convince the powers at the court of the feasibility of his plan, Carondelet further sought to show that the project would more than pay for itself. By way of comparison, he said that New Bourbon, founded just a year before Ouachita, then had a population of five hundred families; and he thought that there was reason to suppose that Ouachita would grow as rapidly. He believed the venture just begun by Bastrop would more than repay the crown within four years. Bastrop was to construct a flour mill, he said, that would produce two thousand barrels of flour within the following year and would make ready to grind ten thousand barrels.

Carondelet seems to have been as enthusiastic over the flour mill as was the Baron himself. He was sure that the best interests of the colony could be admirably served by such an undertaking—it would, in fact, he thought, make the colony self-sufficing. This was an argument which should have definitely won the approval that Carondelet sought: for Gayarré tells us that as late as 1800 the chief source of revenue accruing to the benefit of the province was the money which was shipped from Mexico, and from Central and South America, and other provinces of Spain. This gold was paid out in the form of salaries to the officials, pensions to various classes of people, and for supplies for the army, eventually finding its way to the farmers in the province.²⁸

²⁸ Gayarré, *History of Louisiana*, III, 440.

In order to make Bastrop's colonists appear favorably to the crown, Carondelet declared that he had endeavored to attract with preference those Catholics in that part of the United States known as Maryland who were not content with the government of the United States. He optimistically said that if the king would condescend to provide them with transportation and with supplies for the first year, almost all the Catholics in that state, who were for the most part German farmers, would emigrate to Louisiana, and the crown would be more than repaid in three years.

In the meantime, Carondelet had sought to have the Intendant Morales honor the contract he had entered into with the Baron de Bastrop. Morales, the guardian of the Royal Treasury, was a man who seems to have exerted a domineering influence over the administrations of three governors of the province.²⁹ He seems to have been rather efficient in his conduct of his office, and to have loyally weighed the policies of the government in the light of the crown's welfare and of economy.

Just five days before Carondelet wrote the letter to the Secretary of State, he had directed a letter in a similar vein to Morales, in which he argued with perhaps more eloquence than he had achieved in his letter to Madrid. He attached to this letter copies of the petition of Bastrop, the contract they had entered into, a list of the settlers, and a separate letter in which he urged that the expenses of transportation be refunded to Bastrop.³⁰ Carondelet assured Morales that:

1. Bastrop's colonists would not be Americans.
2. Wheat culture was to be the sole purpose of the venture.
3. Bastrop was to erect a flour mill which would grind two thousand barrels of flour within the next year.
4. Such a colony would insure the safety of the province in the event that the Americans attempted to encroach upon Spanish soil.

In conclusion, he asserted that the cost of the project to the crown would be small in comparison to the advantages that were sure to accrue to its benefit. Here was an opportunity, he urged, to get something done. Bastrop was a man of known

²⁹ Larned, *The New Larned History*, 5318-5326.

³⁰ Carondelet to Morales, June 11, 1797, in Archivo General de Indias "Audiencia de Santo Domingo" 1763-1818, 201-218.

qualifications, and it would be to the advantage of the government to place him in charge of the project with the *Hacienda Real* having nothing to do except turn over to him the necessary funds and hold him to a strict account of the expenditures.

The specific funds asked for by Carondelet consisted of money sufficient to meet the costs of provisions for the colonists which Carondelet had obligated the government to pay and reimbursement of Bastrop for the money he had spent in transporting the settlers to Ouachita. Bastrop had written a letter to Carondelet on June 1 saying that he had been compelled to buy a barge from the Captain of the Port at New Madrid. This boat had cost him six hundred pesos, he said.³¹ He had also drawn up a contract with Carondelet in which he had agreed to furnish rations to his colonists at a price of one and one-half *reales* monthly per ration. He was to furnish each person twenty-four ounces of bread or the equivalent in wheat, twelve ounces of fresh beef or six ounces of bacon, and a small portion of salt.³²

Opposition to the Contract

Carondelet's demand upon the Royal Treasury of June 11, 1797, seems to have caused Morales some alarm. In his letter to the Secretary of Finance, Don Pedro Varela y Ulloa, dated June 30, 1797, he said that he was greatly embarrassed because the treasury at that time was depleted by the employment of additional military forces necessary to the protection of the province, and because no authority had been given him by the crown to recognize the contracts thus made by Carondelet, nor had any fund been placed in his keeping which he had the authority to expend for any purpose other than that for which it had been allotted.³³

In his dilemma he called a meeting of the Junta de Hacienda Real, consisting of Don Manuel Serrano, Assessor of the Intendancy, Don Gilberto Leonard, Treasurer of the Army, Don Cayetano Valdes, Secretary of the Intendancy, and Morales himself, who was Intendant of the Provinces of Louisiana and West Florida. This junta met at New Orleans on June 13. As a result of the deliberations therein, they agreed to advance the money

³¹ Bastrop to Carondelet, June 1, 1797, *ibid.*, 237.

³² Bastrop to Carondelet, June 1, 1797, *ibid.*, 244.

³³ The Intendant Morales to the Secretary of Finance in Madrid, June 30, 1797, *ibid.*, 209.

necessary to fulfill the obligations incurred by the contracts Carondelet had entered into as a representative of the government up to that time; but they decided that Bastrop and Carondelet were to be asked to bring in no more families until some provision was made for financing the project.³⁴

They then asked that their action on this matter be approved by the crown, though the Intendant had not been a party to the contract. The policy of the government, they maintained, had always been to pay all its just obligations and in order to protect the reputation of the provincial administration, it appeared that they should carry out the terms of the agreement, as Carondelet had some authority to enter into such contracts.

On the same day Morales informed Carondelet of the action of the junta, requesting that he and Bastrop be governed accordingly.³⁵ On June 16, 1797, Gilberto Leonard countersigned the contract relative to the furnishing of rations, which had been made on June 1.³⁶ Morales on June 30 reviewed the Bastrop project, giving an account of the action of the junta and of the circumstances and conditions under which Bastrop had begun the settlement of his grant. In his report to the Secretary of Finance, Morales raised objections to the ideas and the schemes of Bastrop and Carondelet.³⁷

The colonists, he said, were American in sentiment and in ideals. They were imbued, he continued, with the spirit of Protestantism and democracy, which would make their presence so near the settlements in New Spain highly conducive to dissension among the Spanish subjects of that territory. He, also, pointed out the fact that these notions had recently brought about much trouble in Europe where Bastrop had been a victim of the disruption. Such a settlement as Carondelet was sanctioning and Bastrop was promoting in Louisiana, he thought, would do a great deal more harm than good, as the entrance of settlers with such noxious ideas as were then extant in the United States would constitute the most serious danger to the peaceful occupation and control of the province by Spain that could possibly confront the government.

³⁴ Minutes of the Junta, Entered June 16, 1797, *ibid.*, 238.

³⁵ Morales to Carondelet, June 13, 1797, *ibid.*, 238.

³⁶ *Ibid.*, 243.

³⁷ Morales to the Secretary of Finance, June 30, 1797, *ibid.*, 214.

Furthermore, he said, the idea that the development of wheat culture to any significant degree in Louisiana was possible was erroneous. Neither the climate nor the weather was such that crops could be grown every year, and the wheat that could be grown there was of an inferior quality. Therefore, such an establishment as Bastrop proposed to promote in Louisiana was doomed to failure.

Morales's letter was accompanied by all the records, documents, and reports in his possession which related to the matter. This report apparently reached Varela y Ulloa, the Secretary of Finance, on February 16, 1798; and on February 20, he added a note to Morales's letter sanctioning all that the Intendant had said about the project. In this note, Ulloa said that the venture was comparable with two other such projects which had proven unsuccessful—that of the Count Aranda who attempted to settle Acadians in Louisiana, in 1783, and the more recent attempt of the Marquis de Maison Rouge, 1795. Both these efforts at settlement had been costly to the government and productive of no good results. He concluded by saying that if the conditions described by Morales existed, it was well to abandon the whole project. On February 23, he turned over to the Secretary of State Morales' report together with his own observations on the subject.³⁸

In reply to a communication of Don Louis Yrujo, Spanish Minister to the United States, Gardoqui forwarded copies of all the preceding correspondence on the Ouachita project that had been in his hands; and in view of the facts disclosed by these documents, he stated that he believed the project had its merits, but that it was fraught with the difficulties cited by Morales.³⁹ So by July, 1798, the attitude of Spanish officials toward Bastrop's venture was clearly unfavorable.

When Carondelet was replaced by Manuel Gayoso de Lemos on August 1, 1797, Bastrop lost the influence of a man who was thoroughly in sympathy with his interests and plans. All the officials in the province were now opposed to his project. Morales, who had already expressed his disapproval of the settlement, was practically the ruler of the province, as the distribution of lands had been placed entirely in his jurisdiction, and his constant quarrels with the new governor considerably handicapped that

³⁸ Ulloa to Gardoqui, February 23, 1798, *ibid.*, 214.

³⁹ Gardoqui to Yrujo, July 19, 1798, *ibid.*, 216.

official in his administration of the province.⁴⁰ Had Gayoso de Lemos desired to aid Bastrop in his undertaking, he would have found it impossible to do so.

Soon after Carondelet was removed, Bastrop went to New Orleans, where he was informed by the new governor that his contract had been suspended. This seems to have been a surprise to the Baron; for he writes in his undated petition to the crown:

Assured by his own conscience, and without anxiety over a grant of land that the Baron de Carondelet had issued him a title to in the name of Your Majesty, and never having suspected the changed attitude of the government of the province, your petitioner received with surprise the intimation made him to suspend the introduction of new families in the Ouachita. . . .⁴¹

Since he realized that the government found American settlers unsatisfactory, he proposed to bring in immigrants directly from Europe. He assured the governor that he could interest German farmers in settling on the Ouachita without any further cost to the government. He thought that such settlers would be thoroughly in sympathy with Spanish laws and customs, and would be an asset to the province. This project, according to Bastrop, was debated many months; but because of friction between the provincial officials, his proposal was never given favorable consideration. As it was true that there was much confusion in the provincial government at that time,⁴² it is quite probable that he did present such a proposal, and that it never received the attention necessary to convince the proper officials of its merit.

Far from giving up the struggle, Bastrop with rugged, persevering courage set about the task of winning adherents to his personal cause and to the idea of developing the territory to which he had become attached. He said:

Exceedingly active and exceedingly interested in the prosperity of Louisiana, in which he found himself owner of a considerable grant of land, now through gratitude, he could not remain inactive, desirous of accelerating through his labors and speculations its splendor and brilliance, he believed he should aspire to go to New Orleans, where, be-

⁴⁰ Gayarré, *History of Louisiana*, III, 386.

⁴¹ Undated Petition of Bastrop, in Archivo General de Indias. "Audiencia de Santo Domingo", 1763-1818, 263.

⁴² Gayarré, *History of Louisiana*, III, 402.

cause of its desirable location, he should form a strong party in favor of the province, and thus acquire new rights to the favor of Your Majesty. . . .⁴³

He pointed out the favored location of New Orleans, the natural outlet for the products of the settlements in the western part of the United States, contending that all that was necessary to make it the most important port in the Spanish kingdom was to promote its commerce. With this idea in view, he says, he made a third voyage to the United States, retracing his steps over the same route he had travelled in 1796 and 1797. This time, according to his story, he made many powerful friends, made contracts for grain and tobacco, and provided for the establishment of many manufacturing enterprises in Louisiana, and met a person who agreed to associate himself with him in the Ouachita project. He returned with some of the products he had acquired in his speculations.⁴⁴

Abram Morehouse, who was apparently the man whom Bastrop refers to as the interested party, arrived in Louisiana in the latter part of the year 1799. By December 12 of that year, he had presented his plans to Casa Calvo, who wrote the Intendant urging that Morehouse's proposals be accepted.⁴⁵ Bastrop and Morehouse had entered into an agreement by which Morehouse received an interest in Bastrop's holdings. Bastrop said that Morehouse placed in his hands a considerable sum of money which he intended to use in building manufacturing enterprises on the Ouachita.⁴⁶ He further stated that Morehouse came to Louisiana with many of the supplies they would need in order to equip the establishments.

Such a partnership was not destined to be affected, however, Gilberto Leonard, Acting Comptroller General and Fiscal of the Royal Treasury, rendered a decision to the effect that Bastrop's

⁴³ Undated Petition of Bastrop, in Archivo General de Indias, "Audiencia de Santo Domingo", 1763-1818, 264.

⁴⁴ Judging from the content of the petition, this third voyage to the United States was made sometime between August 1, 1797, and May, 1800; for clearly Gayoso de Lemos was alive when he left, as he says, "I arrived here last May, and found the government in confusion because of the death of Manuel Gayoso de Lemos." Gayoso de Lemos, according to Gayarré, died July 25, 1799, (*History of Louisiana*, III, 264-265). Now Bastrop could not have returned to New Orleans before May, 1800; and it is unlikely that he arrived in any other year, as Casa Calvo had arrived in October, 1799, and before May of 1801, would have had the situation firmly in hand.

It is probable that Bastrop left for the United States early in 1799, and returned to New Orleans in May, 1800; and that the petition was written early in 1801.

⁴⁵ According to a list of documents in the Library of Congress, cited in Southern History Association, *Publications*, XI (1907), 106-108, there is a letter calendared as follows: "Letter of the Marquis de Casa Calvo to the Intendant Morales in recommendation of Morehouse's Proposals. New Orleans, December 12, -1799".

⁴⁶ Undated Petition of Bastrop, in Archivo General de Indias, "Audiencia de Santo Domingo", 1763-1818, 265.

contract had expired, not only because it had not received royal sanction, but also because the terms of the contract had not been fulfilled by him.⁴⁷ This decision was rendered January 18, and on March 26 of the same year, 1800, Don Juan Filhiol, Commander of the Fort at Ouachita, wrote a letter to the new Intendant, Manuel Lopez y Angulo, who had succeeded Morales January 1, 1800, in which he stated that the whole project had been a failure. He especially recited that the colonists Bastrop had brought in were not desirable.⁴⁸ In September of 1800, Lopez y Angulo wrote a letter to the secretary of state asking him not to sanction the proposals of Bastrop, Morehouse, Morgan, or anybody else that Casa Calvo might recommend.⁴⁹ Then as a *coup de grace* to the venture that Morales had so effectively disrupted three years before, he, again, wrote to the secretary of state in a final thrust at Bastrop's interests. He reviewed the entire history of Bastrop's efforts at colonization, reciting the shortcomings of the venture, and criticizing the immigrants that he had brought in.⁵⁰

It was probably at this time that Bastrop directed his undated petition to the Spanish crown. In this instrument he bared his soul in an effort to get the king to recognize his claims. He recounted how he had toiled, sacrificed, and even suffered in his efforts to develop the province of Louisiana. He pictured his journeys for settlers; he reviewed many of the countless schemes and plans he had conceived; and told of his many failures, most of which were the result of injustices done him by officials in the provincial administration. He cited the specific injuries done him by Morales and Lopez y Angulo.

The crown, he added, as a matter of policy, could never approve such a subterfuge as they offered for dispossessing one that had been as loyal and as valuable to the Spanish province of Louisiana as he had been. Such treatment, he contended, would be deserved only by a criminal.

Bastrop's arguments were of no avail; for as the king read this protest, he probably remembered all that Morales had said, all that Lopez y Angulo had said, and numerous incidents which pointed to the undesirability of Americans in Spanish territory.

⁴⁷ Decree of Gilberto Leonard, January 18, 1800, in Library of Congress, listed in Southern History Association, *Publications*, XI (1907), 106-108.

⁴⁸ Filhiol to Lopez y Angulo, March 26, 1800, *ibid.*

⁴⁹ Lopez y Angulo to the Secretary of State, September 25, 1800, *ibid.*

⁵⁰ Lopez y Angulo to the Secretary of State, July 13, 1801; *ibid.* Cf. *American State Papers, Public Lands*, II, 772-773.

Relations between the United States and Spain, never having been serene, were at that time such as to prejudice the mind of practically any Spanish official against the American government and its people.⁵¹ It was not surprising, then, that in September of 1801, the crown decreed that no more Americans could settle in Louisiana: and since Bastrop's venture was considered as American expansion into Louisiana, it is not surprising that it never received royal sanction. Bastrop's venture, therefore, never had legal status.

Bastrop's Later Activities at Ouachita

Though his colony had been officially outlawed, Bastrop continued to bring colonists to Ouachita. In fact, he seems to have turned to land speculation as his chief occupation. However, he seems never to have lost the desire to develop the industries and interests of the province of Louisiana. During the remainder of the period of Spanish occupation, and after the United States took possession of the territory, he sold lands to various people under titles that required that they actually settle them within a stipulated period of time. A case in point is that of Mordecai Richards, to whom Bastrop conveyed title to a tract of land on October 8, 1804, upon condition that he either settle it or have it settled within one year.⁵² Several of the deeds by which he conveyed title to lands in his original grant in the years 1802 and 1803 state that he conveys title for consideration of one dollar and the condition that the buyer shall actually settle on the land. Cases arising out of the land claims in Louisiana following the acquisition of the territory by the United States clearly show that Bastrop bought and sold many tracts of land there between 1801 and 1806.⁵³ Whether his desire to populate the country, as exhibited by his grants for one dollar and settlement, was entirely personal, or whether he, as a matter of civic pride, wanted to see the province become important is a matter of speculation. It is doubtful, however, that there was ever a more unselfish person connected with the Spanish regime than the Baron de Bastrop.

In connection with his land speculation, he seems to have engaged in agriculture as well. John Nancarrow, as his legal representative, in 1813 filed claim to land for Bastrop under a title

⁵¹ Gayarré, *History of Louisiana*, III, 386-446, *passim*.

⁵² *American State Papers, Public Lands*, II, 771-772.

⁵³ *Ibid.*, I, II, III, IV, *passim*.

supported by a deed from Jose de la Baume dated in 1802. In the hearing on the claim, Nancarrow presented evidence of John Hughes, taken on November 26, 1813, to the effect that Bastrop was actually living on the land and cultivating it in 1803, and that he knew it to be a fact that he lived on it until he left the province (1806).⁵⁴

Another occupation he seems to have followed was trading with the Indians. In his petition to the Spanish crown, dated May 14, 1813, Bastrop says that Casa Calvo in 1801 granted him exclusive right to trade with the Indian Tribes in Louisiana. What the extent of his operations was has never been revealed. He states that the concession ceased to be profitable after the United States acquired the territory. Whether he considered it profitable before the United States took the territory into its possession is not stated. The petition mentioned here was written from Bexar after Bastrop moved to that place, and was accompanied by documents signed by Spanish officials who had been connected with the provincial administrations at Bexar and in New Orleans.⁵⁵

After the United States acquired the territory, Bastrop seems to have preferred to follow the Spanish flag; for he sold out his holdings in Louisiana on May 14, 1805. In a contract which he entered into with Abram Morehouse and Charles Lynch, Bastrop conveyed to these men all the lands that he still claimed in his original grant. Lynch, however, for other considerations, conveyed to him one hundred thousand square arpents of land, which was all of the original grant he kept in his possession.⁵⁶

Significance of the Settlement

From the standpoint of the Spanish government the settlement on the Ouachita stands along with the projects of several other promoters as a monument to the utter folly of attempting to bring foreigners in as settlers to hold a province. The later and more sober views of officials coming several years after the province had been lost seem to coincide with the views of Morales and Lopez de Angula. This fact is evidenced by a letter written by Garay, Secretary of State, to Onis, the Spanish Minister to the United States, on September 11, 1819. It seems that Onis was

⁵⁴ *Ibid.*, III, 154-155.

⁵⁵ Bastrop's Petition for Spanish Citizenship, May 14, 1813, in Archivo General de Indias, "Audiencia de Guadalajara", 1763-1818.

⁵⁶ *Senate Executive Documents*, 32 Cong., 2 Sess., No. 4, pp. 24-25.

being asked by American officials just what status Bastrop's claims had with the Spanish government. Onis asked his government for this information.⁵⁷

On June 18, 1819, Garay received Onis's letter and turned it over to the Claims Department of the Spanish government, in which department it seems to have been handled by several clerks. It emerged from the Claims Department to fall into the hands of Ramon Saenz, secretary to the secretary of state, with three notes attached to it. One of these notes read:

Said Baron de Bastrop, pretending to be an immigrant from Holland, but in reality nothing more than an American adventurer, presented to Carondelet an arrogant project of colonization, asking to be awarded a number of considerations and privileges; and Carondelet, the Governor, motivated by good intentions, although with not much discretion, sanctioned the project of Bastrop, and conceded him all that he asked. . . .⁵⁸

A letter from the secretary of the claims department was written Saenz to the effect that Carondelet had the authority to make the grant, but that the contract had become inoperative because of non-fulfillment on the part of Bastrop. This answer was directed to Onis by Garay.⁵⁹ The notes on the letter are an expression of the Spanish attitude toward the venture,—it was arrogant, impractical, and of little importance.

From the standpoint of the development of the Ouachita country itself, one may readily come to the conclusion that Bastrop's efforts there did bring in a few settlers. To determine the exact number of settlers brought in by Bastrop could not be easily accomplished, but evidence already presented has proven that the settlement attracted a number of Anglo-American families.

CHAPTER III

BASTROP'S EARLY DAYS AT BEXAR

By 1801 there was developing a desire on the part of Spanish vassals in Louisiana to emigrate to Texas.¹ They presented various reasons for wanting to transfer their homes to this province.

⁵⁷ Onis to the Secretary of State, April 12, 1819, in Archivo General de Indias, "Audiencia de Santo Domingo", 1768-1818.

⁵⁸ *Ibid.*

⁵⁹ Garay to Onis, September 11, 1819, *ibid.*, 288.

¹ Mattie Austin Hatcher, *The Opening of Texas to Foreign Settlement, 1801-1821* (Austin, 1927), 67

Some wished to escape the animosity of their enemies in Louisiana. Martin Despallier on January 18, 1804, petitioned the commanding general of the department of Texas for permission to settle at Bexar for such a reason.² Some loyal Spaniards who had heard rumors to the effect that Louisiana had been ceded to France desired to cast their lots with the Spanish administration in Texas.³ Whatever the motives of these settlers were, many petitions were made for the privilege of coming to Texas during the years 1801-1806.⁴

Admittance of settlers from Louisiana was somewhat contrary to Spanish policy. In the light of present policies of administration it seems most strange that an almost impenetrable barrier should have existed between the two provinces; but the fact that Louisiana had been settled largely by foreigners, made Spanish officials reluctant to permit them to come into Texas, which had as yet been practically unknown to the adventurers that had given Louisiana such a colorful history. Conditions at this time, however, had considerably changed, necessitating a change in attitude on the part of the officials. Louisiana had been looked upon as a buffer between the United States and New Spain. It had passed into other hands leaving the great province of Texas accessible and tempting to their land-grabbing neighbors to the north. To save New Spain, then, Spanish officials sought to erect a barrier on the Texas frontier that would stop the American march toward the realization of the dreams of "Manifest Destiny" apparently uppermost in the minds of some American statesmen.⁵

These Spanish officials saw in the numerous petitions for the privilege of settling in Texas, a large number of Spanish vassals who preferred Spanish rule to that of either France or the United States—surely these worthy subjects would not contaminate Texas with the ideas of democracy, the ideas of equality, and the heresy of Protestantism. Those in authority in Texas welcomed the idea as did the influential property holders who possessed the modern chamber of commerce idea of enhancing the value of their holdings. On September 24, 1803, a royal decree was issued to the effect that any of the Spanish vassals in Louisiana desiring to do so would be permitted to pass into Texas with their prop-

² Petition of Martin Despallier, January 18, 1804, in Bexar Archives.

³ Hatcher, *Opening of Texas to Foreign Settlement*, 60.

⁴ Bexar Archives, 1801-1806.

⁵ Hatcher, *Opening of Texas to Foreign Settlement*, 60-101, *passim*.

erty and settle there.⁶ An attempt was made to keep out foreigners by demanding proof not only of citizenship but loyalty to the province; but true to the Spanish custom, this provision of the law was not enforced.⁷

As a result of this new policy with reference to immigration into Texas, by the end of 1805 many of the settlers from Ouachita had passed into Texas, where they had settled, hoping to profit by the change. Most of them had been brought to the Ouachita by Bastrop or had become acquainted with him while there. José de la Baume, Bastrop's most intimate friend in his last days at Bexar, who had settled at Ouachita in 1799,⁸ had sold out to Bastrop in 1801. In August of that year he had petitioned the governor of Texas for permission to settle in the province. La Baume first settled at Nacogdoches, but later went to Bexar, where he resided many years.⁹ Other settlers from Louisiana who later became prominently connected with Texas were José Vidal, Mordecai Richards, and Valentin Layssard.

In the meantime the trading operations of Bastrop at his post on the Ouachita had suffered as a result of competition given him by the posts established by the Americans; and Casa Calvo, who had granted him the privilege of trading with the Indians in 1801, conceived the idea of sending him to Bexar to arrange with the officials there for a concession to establish a trading post.¹⁰ Doubtless Casa Calvo had some personal interest in the venture. At any rate he sent Bastrop to Bexar armed with a passport and letters of introduction.

The earliest evidence of his appearance in Texas is a letter to Elguezabal from Valle, the Commandant at Nacogdoches. In this letter, Valle said:

By virtue of the order issued by the Commanding General on the 17th of June, together with one of the 18th of July, which I pass to you, I am giving Mordecai Richards license to go to that capital. He is accompanied by the Baron de Bastrop as you were advised on the 13th of August, last. . . .¹¹

⁶ Aguirre to Elguezabal, April 3, 1804, in Bexar Archives.

⁷ Hatcher, *Opening of Texas to Foreign Settlement*, 74.

⁸ *American State Papers, Public Lands*, III, 526.

⁹ Hatcher, *Opening of Texas to Foreign Settlement*, 299, 302.

¹⁰ Bastrop's Petition for Spanish Citizenship, May 4, 1813, in Archivo General de Indias, "Audiencia de Guadalajara", 1753-1818, Dunn Transcript.

¹¹ Valle to Elguezabal, September 1, 1805, in Bexar Archives.

Bastrop had arrived at Nacogdoches with three slaves and a French servant.¹² He had conferred with the officials at that post; and Valle gave him the above letter in order to expedite his journey.

Soon after this the Baron appeared at Bexar. He presented the letters of introduction from Casa Calvo to the officials there. He also brought a letter from Manuel Salcedo, who had been governor of Louisiana during the last years that it was under Spanish rule.¹³ These letters describe Bastrop as a loyal Spanish vassal. They state that he is desirous of moving to Texas, and request that he be given such a grant as will satisfy his needs. These former Spanish officials assured the Texas officials that they had known Bastrop for a number of years, and that he had lived in Louisiana for more than ten years, where his many services to the crown had entitled him to worthy consideration.

On September 23, 1805, he presented his petition to the Governor of Texas. In order to get favorable consideration at Bexar, he presented, along with his application, a paper in which he gave the officials information concerning the military movements of the United States on the Spanish border.¹⁴ Cordero summarized Bastrop's report in his letter, and accompanied the report with a Spanish translation. He said that Bastrop, after presenting his passport and letters of introduction, offered a considerable amount of valuable information. Bastrop recited the results of his observations on the military forces and operations of the United States from the time of Carondelet's administration to that date. He told the number and distribution of the troops, and the number and strength of the garrisons. He described the maneuvers of the armies, and the efficiency of the tactics. He commented upon the Indian allies of the United States, and the efforts being made by that power to alienate the tribes loyal to Spain. He asserted that the Americans were "land-hungry", that their leaders were shaping policies of aggrandizement against Spain, and that there had been recent indications of hostility against the border posts. He then discussed business conditions in the United States, and commented upon the ideals of the people there.

¹² Valle to Elguezabal, August 13, 1805, *ibid.*

¹³ Petition of Bastrop, May 4, 1813, in Archivo General de Indias, "Audiencia de Guadalajara", 1753-1818

¹⁴ Cordero to Salcedo. September 25, 1805, in Bexar Archives.

After thus translating Bastrop's report, Cordero, in the same letter, recommended measures to Salcedo which he thought might curb the intended attack on the Spanish posts. The forces on the Trinity, he thought, should be increased, and the posts at Nacogdoches, Orcoquisac, and Matagorda should be carefully guarded. These measures, he suggested, would protect the province until reinforcements could be received from Spain.

On September 29, 1805, Bastrop wrote to the commanding general making formal petition for the privilege of settling at Bexar. After stating that he was remitting a letter of Manuel Salcedo and a dispatch of Casa Calvo, he explained that he had intended to journey to Chihuahua to see him in person; but that because of rains, the streams were swollen, and the season had so far advanced that the weather would not permit him to make such a trip. Then he said:

I am, therefore, obliged, in this manner, to ask of you the liberty of conducting to the interior provinces a part of the inhabitants of Ouachita, whom I introduced there with the consent of the Baron de Carondelet, and also the Choctaw Indians that I established there by order of Governor Salcedo and Señor Casa Calvo. I further ask permission to export the horses necessary for me, the inhabitants, and the Indians to transport our belongings to this province. . . .¹⁵

He went on to say that the government could rest assured that he would introduce only the best type of settlers. They would all be Catholic in religion, efficient laborers, and useful inhabitants of the province. He said that the Indians he intended to bring were good warriors; that because of the experience gained in their constant war with the Osages, they could be relied upon to take care of themselves in any conflict that they might have with the Indians of the United States. He concluded the petition by pledging that neither he nor anyone he would bring in would ever abuse the favors extended them by the crown.

Cordero, the Governor of Texas, attached a note to this petition saying that such a project was entirely within the laws relative to entrance of Spanish vassals from Louisiana; and that he felt that the Indians would protect the province from the Indians living in the territories of the United States.

Nemecio Salcedo apparently notified Cordero that Bastrop had his permission to settle at Bexar; for on October 18, 1805,

¹⁵ Petition of Bastrop, September 29, 1805, in Nacogdoches Archives.

Cordero replied that he had given Bastrop permission to settle his colony.¹⁶ The text of the grant which Cordero had made Bastrop on the preceding day was as follows:

This day I have granted to Baron de Bastrop, vassal of his Majesty, an inhabitant of Ouachita in the province of Louisiana, license to emigrate from that country to this and establish himself in this province, on the lands and rivers between the Trinity and this capital, with a colony of seventy or a hundred families, of the same class, and of Choctaw Indians, faithful defendants of the Spanish dominions, on account of their having agreed to conform with the conditions and regulations prescribed by the viceroy and approved by His Majesty, and to subject themselves entirely in their establishment, to the rules, conditions, and orders in that jurisdiction, the particulars of which I have informed said Baron verbally, not having thought it convenient to do so in writing on account of the risk of the papers, by some chance, falling into the hands of the Anglo-Americans. . . .¹⁷

After receiving permission to plant a colony in Texas, Bastrop returned to Ouachita to get his colonists. On his way back he apparently notified Cordero of further news of military movements of the United States, for on December 30, 1805, Salcedo acknowledged receipt of a communication from Cordero relative to news received from Bastrop to the effect that he heard rumors at Nacogdoches of an order to American commanders on the border to march on the Spanish frontier garrisons at the first opportunity.¹⁸

Upon his return to Ouachita, Bastrop found it impossible to urge the settlers there to go with him to Bexar.¹⁹ The fact that the United States troops occupied the province prevented him from proceeding openly, he said, as he feared that he might arouse their suspicion. A more serious handicap, however, was the indifference of the settlers themselves. They found American administration over the province had not made it less attractive. To make the move would necessitate possible financial loss, as their holdings on the Ouachita were much more secure than a mere promise of lands in an unproven frontier province. Far from embracing such an opportunity, even the Indians upon

¹⁶ Cordero to Salcedo, October 19, 1805, *ibid.*

¹⁷ Decree of Cordero, October 18, 1805, in C. A. Gulick and Katherine Elliot (Editors), *The Lamar Papers*, I, 112.

¹⁸ Salcedo to Cordero, December 30, 1805, in Nacogdoches Archives.

¹⁹ Petition of Bastrop, May 4, 1813, in Archivo General de Indias, "Audiencia de Guadalajara," 1753-1818.

whom Bastrop had counted found American rule quite satisfactory. They were able to drive better bargains with American traders than they had been able to get with the Spanish. So Bastrop's plan for a settlement in Texas, like so many other projects he attempted to promote, was doomed to failure.

In December of 1806 Bastrop again appeared at Bexar. This time he had come to stay. On December 19 he presented the following petition to the commanding general:

The Baron de Bastrop has the honor of presenting to you that he last year demonstrated to Governor Cordero the benefits to the king that could result from the immigration of savage American Indians to Spanish territory; but that the American Government, in order to prevent this emigration, made use of warehouses where goods are offered at cost—New Orleans prices.

He further presents that it will be convenient to establish in this province the same sort of warehouses, to be operated either by the government or by an individual who has the exclusive privilege of trading with the Indians, and who is given such a concession as will enable him to meet the loss he is sure to incur.

As no individual has attempted to obtain this concession, the petitioner proposes to establish such a warehouse in this capital where he will place all the goods needed by the Indians that live here and can immigrate here from other provinces. He will obligate himself to sell the goods here at New Orleans prices for a period of ten years, provided your Excellency is disposed to permit him to bring the goods here from New Orleans, and give him a license to export five hundred horses from this province each year. . . .²⁰

By this petition Bastrop hoped to acquire the concession to engage in the Indian trade. It was to trade rather than to colonize that he had come to Bexar in the first place. He and Casa Calvo had considered that a profitable trade could be built up by attracting many of the Indian tribes from the United States.

On the next day, December 20, Cordero wrote Salcedo saying he was inclosing a document in which Bastrop asked for permission to trade with the Indians. Cordero made no suggestions in regard to the proposition. He simply stated that he awaited Salcedo's decision in the matter.²¹

²⁰ Bastrop to the Commanding General, December 19, 1806, in Bexar Archives.

²¹ Cordero to Salcedo, December 20, 1806, *ibid.*

Salcedo, however, did not see fit to relax the colonial trade laws for Bastrop's benefit. On September 7, he replied that he did not wish to grant Bastrop the privilege of exporting the horses. Cordero received Salcedo's letter and referred it to Bastrop in his communication to him under date of March 2, 1806. A few days later, March 4, Bastrop wrote Cordero, saying that since Salcedo would not consent to the exportation of horses, he could not undertake the venture.²² He emphasized his loyalty to the Spanish government, but explained that since he must meet the competition of the American trading posts, he would have to sell the goods at cost, a procedure which would necessitate some means of compensating himself if the interests of all concerned were to be served.

He concluded the letter by offering another proposition to the government. He told Cordero that he would be glad to establish the warehouse and sell goods at the price set by the government if he was permitted to buy the goods wherever he wanted to at whatever prices he could get them for. He stated that in case he entered into such an agreement, the government should not expect to look into the records of his business. It is possible that Bastrop considered buying smuggled goods to sell to the Indians.

Evidently Salcedo gave Bastrop's counter-proposal some consideration; for he wrote Cordero asking him his opinion of the proposition. Cordero replied as follows:

About Bastrop and his proposal to establish a trading post, upon which you ask me my opinion in your communication of April 15, I know nothing. As to a trading post, I believe that we need one here, as the United States Government is furnishing such posts, and many Indians of this territory go there, spending the money they receive for their pelts and horses, which might be diverted to this province. However, unless we establish a port at San Bernardo, our traders will have to buy from American traders at their prices, and thus can not compete with them in the Indian trade. . . .²³

Bastrop seems to have definitely made up his mind to settle at Bexar and cast his lot with the fortunes of the province; for on April 4, 1807, he was deeded a house and lot at Bexar.²⁴ This property had formerly belonged to Francisco Requier, from whom it had been confiscated.

²² Bastrop to Cordero, March 4, 1806, *ibid.*

²³ Cordero to Salcedo, May 15, 1807, *ibid.*

²⁴ Deed, Government to Bastrop, April 4, 1807, in Bexar County Court Records.

In the first days of his sojourn at Bexar, Bastrop seems to have been closely observed. Most of the officials there looked upon him with suspicion. On July 28, Salcedo addressed two letters to Cordero. In one of these letters he simply stated that he had written Bastrop for a categorical statement of his intentions relative to the establishment of the Indian trading post. In the other, he asked him to ascertain the motives of a suspicious character at Bexar. Though he mentioned no names, he evidently referred to Bastrop;²⁵ for on September 16, Cordero replied that he had before him Salcedo's letter of that date, and proceeded to say that with reference to Bastrop:

I do not doubt that the Baron de Bastrop intends to live in this province, because he has purchased property in this capital and is living here as a loyal vassal of our king. He has been here alone, awaiting my permission to make the journey to the places named in the inclosed petition, when the opportunity arrives, to bring his family with him. I am sure the business he is engaged in for his subsistence is honest and legal, and I tell you this because it is my duty, and in execution of the orders you have given me. . . .²⁶

Cordero, just a few days before this, had written Salcedo the following letter concerning Bastrop:

In spite of the recommendations in favor of the Baron de Bastrop to this government by the Marquis de Casa Calvo, I have always looked upon him with suspicion. But as a consequence of this close scrutiny, I am compelled to say that he has always been loyal and faithful to this province and to this nation. I suspend my judgment upon this person until the accompanying documents have been passed upon by the superior government. . . .²⁷

So by the end of 1807, Bastrop had located himself at Bexar, he owned property there, and the officials were somewhat convinced that he was a worthy citizen. During the next few years, he was striving to maintain his existence, and to establish a good reputation there. He seems to have bought some mules and started to freighting goods from the interior of Mexico for the use of the Spanish troops at Bexar.²⁸

²⁵ Salcedo to Cordero, July 28, 1807, in Bexar Archives.

²⁶ Cordero to Salcedo, September 9, 1807, *ibid.*

²⁷ The accompanying documents referred to above were letters from the Spanish Minister Yrujo. Cordero to Salcedo, August 16, 1807, *ibid.*

²⁸ Bastrop to the Crown, February 6, 1810, in Archivo General de Indias, "Audiencia de Guadalajara," 1800-1819.

In support of his petition for Spanish citizenship, Bastrop presented the sworn statements of three men, Juan Ygnacio, Mariano Rodriguez, and Francisco Arocha. All of these witnesses were attested by the alcalde that took their depositions to be honorable and trusted citizens of Bexar. Each of them declared that Bastrop had been engaged during the past two and one-half years in buying goods at Monterrey, Monclova, Cadena, and other points in Mexico for the Spanish troops at Bexar and freighting them to that point. They stated that he had bought property at Bexar, was building a house there, and that he owned grazing lands on the Guadalupe River, where he had a herd of sheep. As to his character, they affirmed that he was known to be a devout Catholic, and was loyal to the Spanish government, and a worthy inhabitant of the province.²⁹

In the year 1809, Salcedo, the Commanding General of the Eastern Interior Provinces, had become alarmed at the aggressive movements of the Americans. He had ordered that the former exclusive policies of the Spanish government be renewed with increased vigor. To insure the safety of the province, he had asked that the governor move all foreigners then at Bexar to Villa Salcedo, where he thought they would be less dangerous to the Spanish regime. The fact that Bastrop had been permitted to remain at Bexar, along with only a very small number of trusted foreigners, seems to confirm the opinions of the men who made sworn statements in support of his petition to the crown.³⁰

Salcedo, however, in defense of his exclusive policy, after mentioning several names, among which was Bastrop's, said:

They are scoundrels, their purposes yet concealed, pretending as much love for this country as hatred for the United States. They make promises, present complaints, offer protestations and assurances; and accustomed to the capricious liberality of our former government which enriched them (through personal motives and not because of merit) in goods, credit, and fortunes. They expect the same treatment—and in general, they consider themselves necessary and act as if they were doing us a favor by the mere act of entering the province. In the end they will be nothing but vultures to pick out our eyes. . . .³¹

²⁹ *Ibid.*

³⁰ Hatcher, *Opening of Texas to Foreign Settlement*, 147-151.

³¹ Salcedo to Cordero, June 14, 1809, in Archivo General de Indias, "Audiencia de Guadalajara," 1754-1820.

Salcedo's policy, however, was not approved by the officials and the citizens of Texas who wished to develop the province. All who knew Bastrop at Bexar seemed to have much confidence in him. Some idea of how the officials felt toward him is given by the request of Mariano Varela, who was governor of Texas in 1816. In that year Raymundo Cuerk (possibly Kirk), a foreigner, appeared at Bexar. The governor wrote Bastrop as follows:

As the foreigner, Raymundo Cuerk, who just arrived here from the United States with letters to this government does not know our language well and you are well instructed in English, which is the language Cuerk speaks, you will proceed to receive his declaration; and with due sagacity you will "draw him out" and will determine his purposes as well as learn his true observations concerning the revolutionaries. . . .³²

The fact that the governor was willing to employ Bastrop in this manner indicated that he had some respect for both his ability and his integrity. Bastrop took the deposition, and on February 24 transmitted a Spanish translation of it to the governor.³³

Of Bastrop and his acts during his residence at Bexar between 1807 and 1820, very little of interest is known. The fact that little is said about him in the official communications is very good evidence that he was a peaceable citizen; for this was a period of many lawless enterprises. That he had been loyal to the government is proved by the fact that he was made second *alcalde* of the *ayuntamiento* at Bexar, doubtless because of his knowledge of the English, French, Dutch, and Spanish languages.³⁴

CHAPTER IV

THE ESTABLISHMENT OF AUSTIN'S FIRST COLONY

In the latter part of the year 1820, the Baron de Bastrop was firmly established at Bexar. He had become a vital part of the Spanish administration there, serving in the capacity of second *alcalde*, with the chief function of translating for the provincial officials English documents and interpreting for

³² Governor of Texas to Bastrop, February 9, 1816, Mexico: Archivo General del Nacion, Provincias Internas, Tomo 239.

³³ Bastrop to the Governor, February 24, 1816, *ibid.*

³⁴ Protocolo of Cases Tried Before Bastrop, Second *Alcalde* of Bexar, in Bexar Archives, under date of February 4, 1816.

strangers who proceeded to that city on missions of various sorts. It was in the role of interpreter that the Baron was to make possible the success of a venture that was to give him a place in history. Like other heroes, however, he probably was not aware of the importance to a great historical movement that his act of kindness to a friend was to exert; for he had always been willing to use whatever influence he had to the advantage of anyone that sought his aid.

If Bastrop attempted to measure his true greatness by the financial yardstick, he must have been disappointed, as he lived in abject poverty. His spirit of helpfulness and cheerful service, though they had not won for him financial reward, had given such a position of honor and trust as were to be of inestimable value to him and to others. Many reports on him had been made by the provincial officials to the superior government. Be it said to his credit that in spite of certain suspicions held by the officials during his early days at Bexar, they were convinced of his merit; and most of these reports presented a composite opinion similar to the one sent the Imperial Deputation after the province of Texas became a part of the Mexican empire. In this communication, Martinez said:

Baron de Bastrop, who has been under the protection of the Spanish government twenty-seven years, and under the rule of this provincial administration seventeen years, has maintained during all this time an irreproachable conduct, having exhibited a humanitarian attitude toward all that have known him, and having performed many interesting, loyal, and confidential services for the governments of both Spain and Mexico, as the documents in the archives of this ayuntamiento will show. . . .¹

He was soon to turn his influence to account; for in the last days of the year 1820, a stranger came to Bexar for the purpose of initiating a project of great importance, and without the aid of some person of influence, the permission requisite to its accomplishment could not have been received.

Moses Austin arrived at Bexar on December 23, 1820, in company with his slave and two companions.² It was his purpose to get a concession to establish a colony in Texas. It was not sur-

¹ Martinez to the Imperial Deputation, January 30, 1822, in Bexar Archives, University of Texas.

² Deposition of Moses Austin, December 23, 1820, in Archivo General del Nacion, Provincias Internas, 1791-1821, Transcript, in Archives of University of Texas.

prising, therefore, that he met with a cool reception, as one of the policies of the Spanish administration was to guard against the possibility of American invasion, either peaceful or otherwise.

When Austin presented himself to Martinez, he was given no consideration. The governor, instead, ordered him to hasten his departure from the capital and to tarry no longer than possible in Spanish territory.³ In compliance with this order, Austin started to leave.

As he walked across the square at Bexar, he met Bastrop, with whom he had been acquainted some years before.⁴ This accidental meeting proved fortunate; for Bastrop intervened, and Austin was given an interview with Martinez. In this manner, the first barrier between him and the accomplishment of his purpose was removed.

Bastrop, as second alcalde, took Austin's deposition and translated it into Spanish.⁵ Austin was asked the usual questions as to his nativity, his purpose in coming to Bexar, and the nature of his observations on the happenings in the United States. To these questions Austin answered: that he was a native of Connecticut, an actual resident of Missouri; that he had lived in Spanish territory many years, and had gotten a passport several years before with the intention of coming to Texas, but that he had not been able to settle his affairs before that time; that he knew nothing about what was going on in the United States except what he had read in the papers relative to the progress of the treaty Onís had negotiated with the United States; but that he had heard rumors at Nacogdoches to the effect that most of Long's men had deserted him, and that the United States had sent a ship of war to drive Laffite from Galveston Island; and that he had brought nothing with him to barter or trade in violation of the Spanish laws.

Bastrop invited the petitioner to avail himself of the comforts of his home until he could recuperate from his long journey; and he remained as a guest of Bastrop during the next six days. Stephen F. Austin says:

He invited my father to his room, where he lived in great poverty, but his influence with the government was

³ Stephen F. Austin, *Translation of the Laws, Orders, and Contracts on Colonization* (San Felipe de Austin, 1829), 1-4.

⁴ *Ibid.*, 4.

⁵ Deposition of Moses Austin, in *Archivo General de la Nación, Provincias Internas*, 1791-1821.

considerable, and was very great with the inhabitants of Bexar, who loved him for the benevolence of his disposition. He was a man of education, talents, and experience. . . .⁶

These two men seem to have had much in common; both were of dreamy, impractical dispositions, and had sought by various devices, schemes and plans to achieve success. While Bastrop was seeking to establish a colony in Lower Louisiana, Austin got permission from Carondelet to exploit lead mines in the present state of Missouri, which was then in Spanish territory, designated as Upper Louisiana.⁷ Bastrop had moved on with the shifting Spanish frontier; Austin had continued his operations in Missouri until the panic of 1819 resulted in the loss of whatever he had accumulated in the way of financial wealth. Both of them were now in their old age, and neither of them had accomplished what was necessary to the satisfaction of his ambitious desires. Men endowed with the courage and fortitude exhibited by either of them are seldom found. Austin's visit must have been pleasant for both host and guest.

On December 29, 1820, Austin, through the mediation of Bastrop, presented a memorial to the governor in which he proposed to establish three hundred families in Texas. He offered to bring colonists from Louisiana who were agricultural laborers of Catholic religion and respectable character. This proposal, probably because of Bastrop's influence, met the approval of Martinez, who referred it to the provincial deputation at Monterrey with a strong recommendation that it be given favorable consideration.⁸

Austin then departed, in company with his slave and a companion by the name of Kirkham, for his home in Missouri, where he intended to make preparations for returning to Texas in time to raise a corn crop the following year. The journey was not to be a pleasant one; for he was to become ill on the way, and his companion was to embarrass him in his apparent efforts to break the strict trade laws of the province.⁹ Before he got out of Spanish territory, he wrote Bastrop saying:

I cannot close this letter without again reminding you that both Lieutenant Sandoval and yourself are in danger of

⁶ Guy M. Bryan, "Sketches of Stephen F. Austin," in Dudley G. Wooten (Editor), *A Comprehensive History of Texas* (Dallas, 1898), I, 442-443. From a copy of a written memorandum made by Stephen F. Austin for his brother, J. E. B. Austin.

⁷ Austin, *Translation of the Laws, Orders and Contracts of Colonization*, 2.

⁸ *Ibid.*, 7.

⁹ Gertrude Rath, "Life and Times of Moses Austin in Missouri," Master's Thesis, 1924, in Archives of the University of Texas.

being drawn into difficulty from the extreme imprudence of Kirkham. This unguarded man has told without reserve that any amount of goods he took to San Antonio would be received by Lieutenant Sandoval into his store. . . .¹⁰

Bastrop seems to have represented both the government and Austin in this enterprise. That the government was trusting him to take care of its interest is demonstrated by the fact that he was requested to transmit news of information concerning Austin. Bastrop, soon after he had left, complied with the request.¹¹ Austin, doubtless in the interest of the venture, on the way back apparently kept Bastrop informed of his plans and observations; for Bastrop, in this letter to Martinez, stated that he was transmitting such portions of the letter as the government would be interested in. If there had been nothing of a personal nature in the letter, it is likely that he would have translated and transmitted the letter in its entirety. The portions thus placed before Martinez were Austin's observations on general news items in the papers of the United States.

Bastrop apparently did all that he could in the interest of Austin. On March 2, 1821, he informed Austin of his intention to send Beramendi to meet him at Natchitoches upon his return to the province with settlers. He spoke highly of Beramendi, assuring Austin of the fact that he could place all confidence in him.¹²

After many misfortunes, Austin reached his home, where he began preparations for returning with settlers. In March of 1821 he was informed of the approval of his project by the provincial deputation at Monterrey; but soon after he received this news he died, leaving his work to his son, Stephen F. Austin, in whom he had confided his hopes and plans.¹³

The younger Austin, who had been working on a newspaper in New Orleans, was already on his way to Texas in company with a number of companions whom he had interested in making the journey with him. Hoping to meet his father at Natchitoches, he was surprised upon his arrival there to find that the elder Austin had died, requesting that his son carry out the plans he had made concerning the settlement in Texas. Here Stephen met

¹⁰ Moses Austin to Bastrop, January 26, 1821, in Barker, *The Austin Papers*, I, 380.

¹¹ Bastrop to Martinez, February 1, 1821, *ibid.*, I, 281.

¹² Bastrop to Moses Austin, March 2, 1821, *ibid.*, I, 384.

¹³ Rath, "Life and Times of Moses Austin in Missouri".

the delegation that the Spanish government had sent to welcome his father. Among the men in the Spanish delegation were Erasmo Seguin, later to become an intimate friend of Austin, and Beramendi, whom Bastrop had introduced to Moses Austin in a letter to him shortly after he left Texas.¹⁴

Austin arrived at Bexar on August 10, 1821, where he was courteously received by Governor Martinez, who favored his carrying out the plans his father had made, and gave him permission to explore the country with the idea of finding a suitable place to found his colony.¹⁵

Bastrop, whose knowledge, experience, and influence had been of such vital importance to the elder Austin, now became the friend and adviser of his son; and on August 18, the old Baron translated and transmitted to Governor Martinez a plan of settlement, which was no doubt the joint work of Austin and Bastrop.¹⁶ Austin, after giving Bastrop power of attorney to represent his interests in Texas,¹⁷ returned to New Orleans, where he fitted out a boat to bring colonists and supplies to Texas, and got together a group of colonists, which he brought back with him by land, arriving in the province of Texas in December of 1821.¹⁸

While Austin was in New Orleans, Bastrop wrote him a letter in French discussing plans for engaging in the Indian trade, and telling him of his efforts to promote the interests of the colony. He said: "Things seem to have taken a favorable turn in the province. As the principals in the government at Monterrey are my personal friends, they have written me that I can count on them. . . ." ¹⁹

After waiting several days at the mouth of the Colorado for the boat he had sent from New Orleans, Austin discovered that it was not to come; and he then proceeded to Bexar to confer with Governor Martinez, who was still the *de facto* head of the provincial administration. Since Mexico was now independent of Spain, Martinez was in no position to assure Austin of the security of the rights and privileges granted him in the contract he had

¹⁴ Austin, *Translation of the Laws, Orders, and Contracts of Colonization*, 1-4.

¹⁵ *Ibid.*, 7-10.

¹⁶ Austin's plan for settlement, August 18, 1821, in Barker, *The Austin Papers*, I, 407-408.

¹⁷ Austin's Power of Attorney to Bastrop, September 1, 1821, *ibid.*, I, 412.

¹⁸ Austin, *Translation of the Laws, Orders, and Contracts of Colonization*, 8-9.

¹⁹ Bastrop to Austin, September 12, 1821, in Barker, *The Austin Papers*, I, 413.

entered into with the Spanish government; therefore he advised Austin to go to Mexico City and seek the approval of the new government before attempting to carry out previous plans.²⁰

In accordance with Martinez' advice, Austin went to Mexico City. His colonists were left in a strange land laboring under all the handicaps of pioneering. The Indians, though they contented themselves with horses and other property of the settlers, were the source of much annoyance to the colonists. In addition to Indian troubles, there were other problems that needed to be solved. John Tumlinson reported that the crops were short, the Indians raiding the settlements, and a Spaniard trying to claim the settlers' lands.²¹

During the first days of this struggling colony, Bastrop seems to have given it his interest and attention. In November of 1822, he went on a mission to the Colorado and to the Brazos. Though no detailed account of his mission is given in the correspondence between the governor and the commanding general, it is apparent that Bastrop went among the Indians near the settlements for the purpose of trading with them in an effort to insure the safety of the colony.²² On December 11, Governor Trespalcacios reported that Bastrop had returned from his mission, and that he was sending a report of what he had done.²³

Bastrop served as intermediary between the colonists and the government. On December 26, 1822, he transmitted an order of Felix Trespalcacios for the election of *alcaldes* and the organization of local government in the two settlements in the colony. He also asked that reports be sent in from each of the settlements showing how many colonists there were and giving specific details as to the property they held. In reply to this order, Josiah Bell presented a report showing that the Brazos settlement had a population of fifty families, and that he had been elected *alcalde*;²⁴ and John Tumlinson, who had been elected *alcalde* of the Colorado settlement, reported that one hundred and thirty-four people lived there.²⁵ So by March 1823, local government had been provided for in the colony.

²⁰ Austin, *Translation of the Laws, Orders, and Contracts of Colonization*, 10.

²¹ Tumlinson to Trespalcacios, February 6, 1823, in Bexar Archives.

²² Trespalcacios to Garcia, November 10, 1822, *ibid.*

²³ Trespalcacios to Lopez, December 11, 1822, *ibid.*

²⁴ Bell to Trespalcacios, February 21, 1823, *ibid.*

²⁵ Tumlinson to Trespalcacios, March 4, 1823. *ibid.*

The fact that the colonists looked to the old Baron for guidance in their relations with the government is revealed in the letter of John Tumlinson in which he gave Bastrop an account of the difficulties he had encountered in his attempt to enforce the law in his district. In this letter, Tumlinson tells Bastrop that he is seriously handicapped by the lack of a code. After citing specific difficulties he has met with, he asks him to please furnish him with "a rule to go by".²⁶

In the meantime, Austin had been successful in his efforts to get his contract approved by the Mexican government. On January 4, 1823, the Imperial Colonization Law was passed, setting up the organic law under which colonization of all vacant lands in Mexican territory were to be settled.²⁷ In the following month a decree was issued by the emperor in which he gave Austin the authority to establish the colony in Texas under substantially the same conditions as the contract between him and the Spanish government had stipulated.²⁸ The Congress which became the legislative department of the new government after the fall of the empire placed its approval upon the agreement Austin had entered into with the former administration,²⁹ and three days later, April 14, 1823, an executive decree put the action of the Congress into effect.³⁰

On the same day that the Executive Decree was issued, copies of all four of the official acts concerning the colony were sent De la Garza, the Commanding General of the Eastern Interior Provinces, and he was instructed to proceed, in the light of the laws on colonization and in view of the authority and functions vested in him by virtue of his office, to effect the organization of the colony, in conformity with the laws of the land.³¹

On June 16, 1823, De la Garza notified the governor of Texas of the colonization laws and decrees, sending him copies of all the documents in his possession concerning the project of Austin, and requested that the governor proceed to effect the organiza-

²⁶ Tumlinson to Bastrop, March 5, 1823, in Barker, *The Austin Papers*, I, 582.

²⁷ Translation of the Imperial Colonization Law, January 4, 1823, in Austin, *Translation of the Laws, Orders, and Contracts of Colonization*, 30.

²⁸ Translation of the Imperial Decree of February 18, 1823, *ibid.*, 34.

²⁹ Translation of the Act of the Constituent Congress, April 11, 1823, *ibid.*, 35.

³⁰ Translation of the Executive Decree of April 14, 1823, *ibid.*, 35.

³¹ In a letter to Garcia, Acting Governor of Texas, dated June 16, 1823, De la Garza says that the superior government mailed him such a communication on April 14. In Bexar Archives.

tion of the colony in the light of his instructions. He instructed him to appoint a commissioner to issue titles to land, and to represent the government in the organization of the colony.³²

As Bastrop had been so closely connected with the enterprise from the time that Moses Austin had first suggested it, he was in a position to know more about the circumstances under which the organization was to be effected. Furthermore Bastrop was well acquainted with the policies of the government. In view, then, of the knowledge and experience of Bastrop, Garcia on July 16, 1823, issued a decree in which he appointed Bastrop commissioner of Austin's colony. In this decree, Garcia said:

I have thought proper to appoint, and do appoint the Second Alcade of this city, the Baron de Bastrop, Commissioner, giving him all legal powers to proceed to the District of the Colorado, and the Brazos, to organize that establishment in conformity with the decrees on the subject, and such instructions as I may communicate. . . .³³

On July 22, Garcia notified De la Garza that he had appointed Bastrop, because of his knowledge of the province. He also notified the commanding general of his intentions to name the town which was to be the seat of the colonial government, San Felipe de Austin.³⁴

On July 26 Garcia notified Bastrop of his appointment. He transmitted to Bastrop copies of all the laws, decrees, and instructions that had been communicated to him by the superior government on the subject, and ordered him to go to the colony with Stephen F. Austin, where he would organize the colony as quickly as possible, reporting all that he did to Garcia so that he could transmit his reports to the commanding general.³⁵

Austin and Bastrop proceeded to the colony to organize it, and to grant titles to the faithful few that had remained there through the trying months since Austin had left the province. By August 3, 1823, they were at the house of Sylvanus Castleman who lived near the present town of Columbus.³⁶ This place became their headquarters for the next few weeks. On that date, Bastrop directed a letter to Andrew Robertson, who lived near

³² De la Garza to Garcia, June 16, 1823, in Bexar Archives.

³³ Austin, *Translation of the Laws, Orders, and Contracts of Colonization*, 36.

³⁴ Garcia to De la Garza, July 22, 1823, in Bexar Archives.

³⁵ Garcia to Bastrop, July 26, 1823, in Austin, *Translation of the Laws, Orders, and Contracts of Colonization*, 36.

³⁶ Stephen F. Austin, *Record of Titles* (MS.). 1827.

the mouth of the Navasota River, apparently, near the present town of Washington,³⁷ asking that he inform the colonists of his mission, and have them meet him and Austin at Castleman's place on August 8, where titles would be issued to the settlers. He emphasized the fact that it would be advisable for all those wanting titles to their lands to present themselves at that time.³⁸ On August 5, he wrote a similar letter to James Cummings urging him to notify the colonists in his neighborhood of the meeting to be held at Castleman's place.³⁹

Several different meetings were held there, in which Bastrop notified the settlers of the authority that had been vested in Stephen F. Austin, and urged that they comply with all the rules and regulations which he set up in the interest of good order in the colony. On August 4, Bastrop, in such a meeting, as representative of the Mexican government, officially conferred upon Austin the rank of Lieutenant-Colonel, thus formally and publicly commissioning him to serve as Chief of the Militia.⁴⁰ On August 9, he issued an address to the colonists in which he said:

They [the colonists] should place full confidence in the founder of the colony, Stephen F. Austin, a man whose former reputation and prudent conduct in this country has won for him the respect of the highest authorities in the Mexican nation; and whose zeal and consideration for the good of the colony and for the province in general, are sufficient proofs that no labor or exertion on his part will be spared to preserve the happiness and prosperity of all concerned. . . .⁴¹

Bastrop remained in the colony until January of 1824, issuing titles to all those colonists deserving them that presented themselves.⁴² On September 24, 1823, Antonio Saucedo, who had been Political Chief of the Department of Texas, had notified Bastrop of his election to the provincial deputation at Bexar, and urged that he complete his work in the colony as soon as possible so that he could take his seat in the meetings of that body.⁴³ Early in 1824, therefore, Bastrop left the colony to take up his duties in the local government at Bexar.

³⁷ *Ibid.*

³⁸ Bastrop to Robertson, August 3, 1823, in Austin Papers (Unpublished), Archives of University of Texas.

³⁹ Bastrop to Cummings, August 5, 1823, *ibid.*

⁴⁰ Bastrop to the Colonists, August 4, 1823, in Barker, *The Austin Papers*, I, 677.

⁴¹ Bastrop to Colonists, August 9, 1823, *ibid.*, I, 683.

⁴² Austin to Seguin, January 1, 1824, *ibid.*, I, 718.

⁴³ Saucedo to Bastrop, September 24, 1823, in Bexar Archives.

After his return to Bexar, Bastrop seems to have worked faithfully to promote the best interests of the colony. On October 16, 1823, he had presented with his endorsement the arguments of Stephen F. Austin in the interests of slavery and religious toleration to Erasmo Seguin, who was Bastrop's personal friend, and a representative in the national congress at Mexico City.⁴⁴ He later presented another such letter, dated January 1, 1824, and he urged Seguin to seek favorable action upon these issues in the national legislative body.⁴⁵

Seguin doubtless gave these letters his sincere attention, and was interested in cooperating with Bastrop and Austin in their attempt to promote the welfare of the colony; for in a letter to his wife, Josefa Beccera, he stated that he had received the communications of Bastrop and Austin, and though he had tried to bring up the matters discussed by them, he thought it would be impossible for him to get anything done for Texas in that session of congress.⁴⁶ A week later, he informed Bastrop that he regretted that there was nothing that he could do, as the members of congress were opposed to the measures advocated by Austin; but that he would do anything that he could in the interest of Texas.⁴⁷

Austin kept in close touch with Bastrop, confiding to him all his problems, and depending upon him for advice in his dealings with the Mexican government. In reply to one of Austin's letters, Bastrop said:

It is certain that there are some restless spirits, enemies of yourself and of good order that will use any pretext to disturb tranquility in the colony, but you must ignore all this. Continue with your enterprise, and do the best that you can. You may rest assured that in the deputation you have two friends, Saucedo and I, and I believe the others do not think ill of you. . . .⁴⁸

In the same letter he said that he had presented Austin's request for the establishment of a recorder's office in the colony to the provincial deputation; and that he was sure the matter would be disposed of as he had suggested.

⁴⁴ Bastrop to Seguin, October 16, 1823, in Austin Papers (Unpublished).

⁴⁵ Austin to Seguin, January 1, 1824, in Barker, *The Austin Papers*, I, 718.

⁴⁶ Seguin to Josefa Beccera, January 7, 1824, in Bexar Archives.

⁴⁷ Seguin to Austin and Bastrop, January 14, 1824, in Barker, *The Austin Papers*, I, 723.

⁴⁸ Bastrop to Austin, March 18, 1824, *ibid.*, I, 752.

So during the first months of the year 1824, Bastrop, while serving in the provincial deputation at Bexar, sought to promote the interests of the colony. He had been the adviser of Austin in all matters of importance connected with the colony, and he had sought to exert his influence in its favor in the national congress.

In the summer of 1824, there was some discontent in the colony. Many new families had arrived and were clamoring for titles to their lands. Crops were bad that year because it had not rained enough; this added to the general discontent. Austin, therefore, wrote Saucedo saying that if Bastrop were sent there to issue titles, he thought the colonists would be better satisfied.⁴⁹ Saucedo, however, before he received Austin's letter, had sent Bastrop to the colony to collect the money due the government under the terms of the fee bill, which Saucedo had issued in a decree of May 20. In the letter he wrote Austin notifying him of Bastrop's mission, Saucedo informed him that Bastrop would also issue titles to all those colonists paying the fees provided for in that decree.⁵⁰

Bastrop, until September of 1824, remained in the colony, where he issued many titles, collected some money, and attended to other duties that he was supposed to perform; but as it was necessary for him to go to Saltillo to serve as deputy in the legislature, he did not finish his work in the colony, and Gaspar Flores was appointed to succeed him.⁵¹

This was the old Baron's last visit to the colony. He had been instrumental in its conception, initiation, organization and progress. If he was given to introspection, he must have surveyed with pride the enterprise that he had served faithfully and well. It was he, after all, that had made it possible. He had fathered it in its early days, he had sought friends for it in the higher governmental circles; and he had been the friend and adviser of its founder. He was not to represent the interests of the settlers in the legislature of Coahuila and Texas. When he left the colony in September of 1824, he was never to return.

⁴⁹ Austin to Saucedo, June 20, 1824, *ibid.*, I, 836.

⁵⁰ Saucedo to Austin, June 22, 1824, in Austin, *Translation of the Laws, Orders, and Contracts of Colonization*, 38.

⁵¹ *Ibid.*, 15.

CHAPTER V

BASTROP'S WORK IN THE LEGISLATURE OF COAHUILA AND TEXAS,
1824-1827

Bastrop's election to the legislature of Coahuila and Texas in May of 1824 came about in a very indirect manner. In March of that year he had written Austin saying:

You will receive an order for the election of a deputy in the provincial deputation; but because of the distance, it will not be convenient for your elector to come here. I believe that the deputation will elect me as the representative of the inhabitants of the Colorado and the Brazos. . . .¹

Bastrop stated that as a member of the local assembly at Bexar, he would serve as elector of the colonists in choosing a representative to the Provincial Deputation at Monterrey.² He further believed that the local assembly would send him to Monterrey as the representative of Texas. Many people at Bexar, he said, thought he was in a position to do a great deal of good for the province.

On the same day, Saucedo notified Austin that the election was to be held on April 20.³ Austin, for some strange reason, did not receive this communication until April 19.⁴ On April 20, four petitions were circulated in Austin's colony which asked that Bastrop serve as representative of the colony. A total of one hundred and five names were signed on these petitions.⁵

¹ Bastrop to Austin, March 18, 1824, in Barker, *The Austin Papers*, I, 752.

The Provincial Deputation at Bexar was a sort of local council which had been brought into existence by a decree of the King of Spain in 1820, and which had been perpetuated by the Mexican government.

It had been organized as an electoral delegation whose function was to elect delegates in a roundabout way to the Provincial Deputation of the Eastern Interior Provinces, including the provinces of Coahuila, Nueva Leon, and Texas. The process by which these delegates were elected was as follows:

Deputations were elected by Bexar and La Bahia, the only two towns in Texas large enough to be given representatives, Bexar electing twenty-one, and La Bahia electing eleven. The Bexar deputation elected two of their number to meet with one representative chosen by the La Bahia deputation. These three representatives met at Bexar to elect one of their number to proceed to Monterrey to represent Texas in the Provincial Deputation of the Eastern Interior Provinces. E. C. Barker, "The Government of Austin's Colony", in *Southwestern Historical Quarterly*, XXI (1917-1918), 224.

² The function of this deputation, which had been set up by the royal decree of 1820, was originally that of electing delegates to the Spanish Cortes. It later became a sort of legislative body, having the functions of levying taxes, promoting the interests of the provinces, and recommending legislation in the interest of the territory to the national government.

It had become of such importance that it had passed on various measures of importance. Governor Martinez had referred Austin's plan of settlement to this body in December of 1820. Barker, "The Government of Austin's Colony", *Southwestern Historical Quarterly*, XXI (1917-1918), 225.

³ Saucedo to Austin, March 18, 1824, in Bexar Archives.

⁴ Austin in his letter to Saucedo stated that he did not receive the notice until the 19th. Austin to Saucedo, April 20, 1824, in Barker, *The Austin Papers*, I, 765-767.

⁵ Barker, *The Austin Papers*, I, 765-767.

Josiah Bell signed an official statement to the effect that the colonists had selected Bastrop as their representative; and on the same day, April 20, Austin notified Saucedo that Bastrop was the choice of the majority of the people.⁶ In this manner, the old Baron was chosen to represent the colonists as elector to choose a representative of Texas in the Provincial Deputation of Monterrey.

When the local delegation met at Bexar on May 10, 1824, however, it did not elect a delegate to Monterrey; for the national government had abolished the administrative unit known as the Eastern Interior Provinces, and had set up the state of Nueva Leon, combining Coahuila and Texas as another separate state. Officials in Texas were notified that Texas would be entitled to one representative in the Legislature of Coahuila and Texas, the representative to be chosen by the same machinery that had chosen representatives to Monterrey.⁷ In the electoral meeting of May 10, the Bexar deputation proceeded to choose Bastrop as the representative of Texas.⁸

The Mandate of His Electorate

Bastrop arrived at Saltillo in November of 1824 with a definite program which had been worked out for him. Be it said to the Baron's credit, that whatever ability he lacked in planning a program was completely made up for by his keen understanding of Mexican psychology, which enabled him to get things done in the legislature.

The major issues in Bastrop's program originated in the mind of Stephen F. Austin, who had long seen the need for certain definite measures in the interest of colonization and had worked with the Mexican officials for a number of years in an effort to get them enacted into the laws of the nation. His proposed legislation is found in his correspondence and recommendations to the officials, and in his journals that he kept in his private papers.

Austin's efforts to influence the government in behalf of the colonial venture that he had established in Texas began with his first trip to Mexico early in 1822. When he arrived there on the eve of the coronation of Iturbide, he immediately began agitating with the National Congress those laws and provisions that he

⁶ Austin to Saucedo, April 20, 1824, *ibid.*, I, 768.

⁷ Llave to Saucedo, May 8, 1824, in Bexar Archives.

⁸ Juan Sambrano, Certified Copy of Election Returns, May 10, 1824, in Bexar Archives.

deemed conducive to rapid colonization of the province of Texas. When the Junta Instituyente succeeded the larger legislative body and Austin was able to get it to incorporate into the Imperial Colonization Law the clause permitting the introduction of slavery, the first major issue with reference to the relations between the colonists and the Mexican government came into being.⁹ The fact that the fundamental principles of Mexican political economy were diametrically opposed to slavery made it impossible for them to accept the Mexican idea of liberty and equality to the point of submitting to the efforts of the government to free all slaves within its boundaries.

Thus the first critical issue arising out of the settlement of the foreign population in Texas had its origin. This same issue was a burning one at the time that Bastrop was elected to the legislature, and it was one that he expected to work on in the interest of his constituency.

Another subject of irritation to the colonists was the establishment of the Catholic Church as the only recognized church in the nation. The fact that the colonists were not permitted to worship in any but the established church made the province unattractive to the stable Protestant settlement in the United States that Austin would have otherwise settled in his colony. Austin, therefore, began agitating very soon after his arrival in the colony for the removal of this objectionable law.¹⁰

The greatest need of the colonists, however, was economic stability. They had always been in poor financial straits, as they depended primarily upon agriculture, with alternate seasons for good and bad crops, and always lacked proper marketing facilities. While trying to work out some scheme by which prosperity would result, Austin learned that the government bought the entire crop of tobacco raised in the province of Orizaba at a stipulated price. He believed that if the colonists could receive the same concession from the superior government, it would insure a definite income each year and that the problem would be solved. He, as a result of this conclusion, had petitioned Seguin to procure such a concession.¹¹

Other problems which had confronted the colonists and had been the subject of many communications of Austin to the govern-

⁹ Austin, *Translation of the Laws, Orders, and Contracts of Colonization*, 13.

¹⁰ Austin to Seguin, January 1, 1823, in Austin Papers (Unpublished).

¹¹ *Ibid.*

ment was the protection of the settlements from the savage Indians, the improvement of the means of communication, and reforms in the judicial system. All of these problems were incorporated into the mandate of the people which became the program of the Baron de Bastrop.

Bastrop's instructions with reference to his labors in the legislature came from two sources—the set of instructions drawn up by the colonists, and the communications of Stephen F. Austin. In June of 1824 the invitation of Stephen F. Austin to the colonists in which he informed them that they were to draw up instructions for Bastrop brought out the will of the people, insofar as it was officially expressed. The response of R. Jones perhaps expressed the sentiment of the majority of them. Jones said:

Agreeable to the notice we received, some of us agreed to have a meeting, but I think we lack public spirit. I would come up (to San Felipe), but our horses have been injured by the flies. . . . My wish is that this country should populate fast, and I think that nothing would facilitate that more than the admission of slavery in this state. An act for the registering of marks and brands also ought to claim the attention of the Legislature. The increase of stock will cause difficulties. An act to prevent the killing of deer and wild horses for the skins alone, I think necessary also. An [act] to prevent persons from setting the prairie afire near the settlements would be necessary; at certain seasons if the prairie was fired it would destroy stocks. As a citizen wishing to conform to every request of my officers, I have thought proper to communicate my sentiments in this way.¹²

Meetings were held on the Lower Brazos on that same day, and at San Felipe the next day. In these meetings, resolutions were drawn up asking for recognition of slavery, a concession to raise tobacco, and, in the meeting of the colonists of the Lower Brazos, trial by jury and the right to elect their own officers.¹³

In August of the same year Austin addressed a letter to the governor in which he set forth the attitude of the colonists, together with his proposed solutions of the problems confronting them. In this letter he told the governor that he had sent Bastrop similar instructions in English.¹⁴

¹² Jones to Austin, June 4, 1824, written from the Fort Settlement in Austin's Colony, in Barker, *The Austin Papers*, I, 809.

¹³ Colonists to Austin, June 4 and 5, 1824, *ibid.*, I, 809, 810.

¹⁴ Austin to the Governor, August 26, 1824, *ibid.*, I, 993.

Austin said that he had divided his colony into four districts—two on the Brazos, one on the Colorado, and one on the San Jacinto. Over each of the districts there was an *alcalde*, who was elected by the people; and a militia company, whose officers were elected, was formed in each district to protect the settlements from the Indians. The work of the *alcaldes*, he said, was greatly hampered by the lack of a code of laws translated into English. Austin urged both the governor and Bastrop to use their influence to have the *alcaldes* properly informed of the laws of the land, and to have the legislature make some provision for publishing them in such a manner that they could be easily followed by the *alcaldes* and conveyed to the colonists.

One of the worst situations existing in the colony, he continued, was the lack of machinery and laws to insure proper administration of justice. The plight of the settlers eastward of the Nacogdoches district, he said, was worse than that of his own colonists. There, the settlers had no clear titles to their land, and there was, in reality, no recognized legal authority. That district would, he thought, attract many settlers if it were incorporated under a form of local administration such as to insure prompt disposition of civil cases, and security of land titles.

In this letter, he introduced the proposition of founding a port at Galveston in order to improve the agricultural industry and to increase the facilities of communication. This, he thought, would tend to strengthen the bonds of unity between the Texans and the Mexicans, and would contribute to the economic welfare of both Texas and the Mexican nation.

In conclusion, he said the measures that he stood for were preservation of good order, increase of population, encouragement of agriculture, and the general welfare of the state.

In December of that year Austin supplemented his letter of August 26 with another letter in which he set forth particular details of law enforcement which he wished to be clarified by the legislature so that the *alcaldes* would know how to act upon cases coming before them. He also urged that a mail route be established between the settlements and the Sabine.¹⁵

Bastrop had been given a difficult program to carry into effect. He had been asked to foster and to initiate many measures

¹⁵ Austin to Bastrop, Memorandum of Instructions to Deputy in Legislature, *ibid.*, I, 996-1000.

to increase colonization. He had been asked to get many improvements in the means of communication, which would be a direct expense to the government; and as Texas paid little into the coffers of either the state or national treasury, the opposition might be expected to oppose this. He had been asked to work for religious toleration and slavery, measures which were fundamentally opposed to the organic law of Mexico, and which would by the very nature of the case have to be settled by the national, rather than by the state, government. Finally, he was to represent a foreign population with ideas diametrically opposed to those entertained by the native element which dominated the legislature of the state, as Coahuila had eleven representatives and Texas had only one.

His Work in the Interest of Colonization

Bastrop made his debut in the legislature on November 16, 1824, at which time he began his work in the interest of rapid immigration into Texas. To improve the economic situation in the province, he asked, on that date, for consideration of Austin's proposal with reference to a concession being granted the colonists permitting them to raise tobacco and sell it to the government as the inhabitants of some of the other provinces in Mexico were doing. An argument as to whether the legislature had the authority to legislate upon matters over which the superior government had jurisdiction ensued, and the bill was turned over to a committee in which it remained during the rest of Bastrop's career as a legislator, and thus one of his measures was smothered.¹⁶

Soon after this, however, he introduced another measure with more success. Bastrop sought by elevating Texas to a department under the leadership of a political chief to make it possible for local matters to be more fully controlled by the inhabitants of Texas. In order to accomplish this end, he presented the conditions in Texas and argued that the creation of such a *jefatura politico*, was not only necessary to the development of Texas, but to the welfare of the country as a whole. His argument on this point was as follows:

The immense expanse of lands and the advantages they offer farmers has excited the desire of the foreigners to colonize it. Only a short time ago, through a decree of the

¹⁶ *Actas del Congreso Constituyente de Coahuila y Texas (MS.)*, 69.

superior government, three hundred families were settled on the Colorado and Brazos rivers. This new establishment begins to progress, and now the colonists desire to establish a port on the coast in order that their products may find an outlet to European markets.

The empresario of that colony has been asked by some two or three hundred families for permission to settle there. In this capital are two empresarios who have offered to bring in 800 more families of the proper sort; and doubtless the colonization law now in committee will increase the petitions for land.

There are a number of families whose numbers are unknown who have settled on rich lands illegally. Some of these are settled within the twenty league reservations closed to foreign settlement by the law of August 18, 1824—and others on the interior lands where they have availed themselves of the best lands in larger quantities than they are entitled to receive.

Furthermore, for many years there have been near the frontier of the United States bands of outlaws. Among these bands are rogues and foreign vagabonds that have molested the settlements, committing robbery and murder. Their activities have brought loss of life and property to the inhabitants of the three eastern states.

Ultimately the Supreme Executive Power ordered the governor by a decree of August 29, 1824, not to permit the establishment of an Anglo-American colony on territory within a distance of twenty leagues from the United States. That those found within the limits of this territory who have not cleared ground or built houses be commanded to leave, and those that have established themselves be removed to the interior, permitting any of them to remain under only very exceptional circumstances.

I know that the governor has not been able to have this territory evacuated, because there is no one to execute his orders; nor can he comply with the last part of the law, which requires that they move into the interior. The province is 400 leagues away; and since there is no one to enforce the law, not even the orders of the superior government can be executed, which results in grave crimes against the state and the nation.

Therefore, I recommend this bill which has just been introduced.¹⁷

¹⁷ Bastrop to Austin, January 1, 1825, in Barker, *The Austin Papers*, I, 1006-1008. In the margin of this memorandum is a note to the effect that the measure was passed to a committee composed of Bastrop, Ramos, Valdes, and Viesca.

Just when the speech quoted above was delivered and the matter turned over to the committee is not revealed in the journal of the legislature, but on January 15, 1825, the committee reported favorably on the bill, and January 18 was set for its discussion.¹⁸ On that date the bill was placed before the legislature, and it was discussed from time to time until it emerged as Decree Number Thirteen.¹⁹

As finally passed, the bill created a *jefetura politico* in Texas over which was a political chief, appointed by the governor of the state with the consent of the legislature. His duties were numerous, and his powers were those of a vice-governor. He was head of the civil government, and could order the military commander of the federal troops in his department to execute the laws when necessary to the public welfare and safety. He was to represent the state and national governments at all public functions, and was to communicate with both the state and federal governments. He was given the authority to preside over the *ayuntamiento* of the town in which he was stationed, and he had the authority to remove any *alcalde* or other local official who failed to do his duty. He was responsible for the enforcement of all laws and decrees of both the federal and state governments. He was to be the mediator between both the federal and state governments and the people of the province.

On February 8, 1825, the legislature was notified that Antonio Saucedo had been appointed Political Chief, and that all the *ayuntamientos* had been notified of the content of the bill which had been passed. Upon receipt of this communication from Governor Rafael Gonzales, Carillo, one of the deputies, moved that charges against Saucedo be investigated before his appointment was approved. The legislature went into a secret session to determine whether Saucedo was guilty of disobeying the laws of the state, as he had been accused of doing. In this session, he was absolved of all charges made against him, and on the same day he was made first political chief of Texas under the new state of Coahuila and Texas.²⁰

Bastrop seems to have been responsible for Saucedo's appointment to the *jefetura*; for, on March 19, he wrote Austin saying that he had gotten the department created and had gotten

¹⁸ *Actas Del Congreso Constituyente de Coahuila y Texas*, 103-104.

¹⁹ *Ibid.*, 109-110.

²⁰ *Ibid.*, 113.

the appointment for Saucedo. In the same letter he said that he had proposed article number fourteen of the bill, which stipulated that the political chief had the authority, if he saw the need for a *subalterno*, to suggest someone to the governor, who would have full authority to make the appointment. He had written Saucedo the previous Saturday, he said; and Saucedo had already written the governor suggesting the appointment of Austin as *subalterno*.²¹

On May 18, Gonzales replied to Saucedo saying that he had submitted his proposal to the legislature, and that his recommendation of Austin as *subalterno* would be given full consideration.²² This matter seems to have ended at this point; for two months later Saucedo wrote Austin saying that if he heard anything more about the matter, he would let him know.²³

In the meantime the colonization law which Bastrop had introduced into the legislature, on February 10, was taking up most of the time of the legislature. Bastrop as a member of the committee on colonization set forth the following principles upon which the committee had framed the bill:

1. That it was important to augment colonization so that the province should be settled as quickly as possible. Without stimulation, he urged, it would require several years to complete the work, and it would be much more expensive, as the empresarios could not complete their contracts, and it would devolve upon the state to do it.

2. That it was to the interest of the state to do all that it could to develop the province as rapidly as possible, as the foreigners coming in would become dissatisfied and become a troublesome element unless the situation was such that they could be prosperous there.

3. That the proposition of granting lands only to Mexicans, as had been suggested, was impractical, as it was to the interest of the economic wealth and protection of the Mexican population to have the province developed so that it would produce wealth for the nation, and so that population on the frontier might be a bulwark against the Indians.

²¹ Bastrop to Austin, March 19, 1825, and Saucedo to Austin, April 14, 1825, in Barker, *The Austin Papers*, I, 1056-1060, 1075.

²² Gonzales to Saucedo, May 18, 1825, in Bexar Archives.

²³ Saucedo to Austin, July 19, 1825, in Barker, *The Austin Papers*, I, 1152.

4. That Mexican families be scattered among the American settlers so that there should be some contact of the foreign population with Mexican civilization.

5. That each family be given at least one "sitio" of land at the price of three "pesos" per labor or thirty "pesos" per "sitio".

6. That the provisions of this act be not changed for a period of six years so that the empresarios might have sufficient time to complete the contracts they were given under its terms.²⁴

Upon the first reading of the bill, it was voted on February 10, 1825, to give it exclusive consideration until it was disposed of. Ten o'clock of each day was set as the hour at which it would be discussed, and February 15 was set as the day upon which it would be given a second reading and discussion of each separate article begun.²⁵

On February 15, the bill began to take form. From session to session article after article was discussed.²⁶ Bastrop apparently did the most of his work in the interest of the bill out of the public session of the house, as he does not appear to have taken much part in the discussions during the procedure recorded in the journal. In a letter to Austin, he said:

There is much opposition in this legislature to Texas. I must get the votes before I present anything for consideration. I am attempting to get Ramos Arizpe elected to the National Congress, as he is interested in the welfare of Texas. . . .²⁷

On March 24, the bill was passed by the chamber.²⁸ It had forty-nine articles, covering practically every phase of colonization that the deputies knew about at that time. There were practically no stipulations that varied greatly from the regulations under which colonization had proceeded up to that time. The empresario system was continued; no empresario was to get any land in his own right until he had settled at least one hundred families. For each one hundred families that the empresario settled under the terms of the law he was to be allowed five "sitios" for himself, except that eleven "sitios" was the maximum amount that any one person could receive. It further stipulated

²⁴ Bastrop in the Legislature, February 10, 1825, *ibid.*, I, 1038-1041.

²⁵ *Actas Del Congreso Constituyente de Coahuila y Texas*, 114.

²⁶ *Ibid.*, 116 ff.

²⁷ Bastrop to Austin, March 19, 1825, in Barker, *The Austin Papers*, I, 1056-1060.

²⁸ *Actas Del Congreso Constituyente de Coahuila y Texas*, 143.

that all contracts made by the empresarios with their colonists before they came to the province were to be binding after their arrival in the colony.

It set eleven leagues of land as the maximum that could be held by any person. Anyone acquiring by any means whatsoever more than that must sell or otherwise dispose of the surplus in twelve years. It provided that land could not be sold to anyone else before the original purchaser had fulfilled the requirements of the law with reference to settlement and payment of fees. Anyone leaving the province before he had completed the requirements of the law, automatically forfeited his equity in the land. Mexican citizens could buy land outright up to the amount of eleven leagues, and could sell it to anybody that would buy it; but the purchaser could not sell it until he had completed the prerequisites that colonists settling under empresarios were compelled to fulfill.

It stipulated that anyone wishing to come to Texas could do so, but that he would have to furnish evidence of good moral character. The procedure established required that the immigrant should apply to the officials at the local ayuntamientos for titles. It provided that those willing to settle could select their own lands insofar as they could find vacant ones within the specifications of the law. It provided that Mexican citizens and military men should have the preference with reference to choice of sites. All those colonists settling under the provisions of the act were to be exempted from payment of all taxes and excise duties for ten years.

This law was very liberal, just as the others had been. It left unsettled the burning issue of slavery. It gave no concession to the principle of religious toleration in theory, but the practice of the government permitted Protestants to enter the country. The exemption of the colonists from taxation and excise duties merely served to make them less willing later to bear the burdens of the government under which they lived, and more arrogant in their denunciation of the principles upon which the Mexican state had been founded.

This colonization law which Bastrop had succeeded in getting through the legislature of Coahuila and Texas was a victory for the proponents of colonization. Under the terms of this law several empresarios were to be given contracts by which they

agreed to bring in colonists. Green Dewitt, Haden Edwards, and Leftwich were there when the law was passed, and through Bastrop's efforts they were given contracts to bring in settlers.²⁹ Soon afterwards Martin De Leon received a contract,³⁰ and colonization of Texas was to proceed at a much more rapid rate.

The colonization law of 1825 was the second direct contribution of Bastrop to the cause of settlement of the Spanish Southwest by Anglo-Americans. He had gotten for Austin permission to settle a colony in Texas, which had given the movement its beginnings; and the colonization law was to give the movement such momentum that the Mexicans could neither control it nor stop it. Bastrop had again accomplished something for which his name is entitled to a place in history.

*Bastrop's Efforts to Get Concessions From the
National Government*

In May of 1825 Bastrop had turned his efforts and attention to the task of getting favorable action on measures in the interest of Texas by the National Congress. In correspondence with Ceballos and Viesca, representatives of Coahuila and Texas in the National Congress, he sought to get them to bring up such measures in that body as the state had no authority to enact. At the same time, he sought to get the state legislature to pass resolutions which might win favorable action of the national body. In a letter directed to both Viesca and Ceballos he set forth the following requests and arguments:

1. That the colonists be permitted to raise tobacco and either sell it to the government or export it. This, he said, would be an economic asset to the nation as a whole, as it would increase the annual income of the nation.

2. That the salary of Saucedo for the time he had spent as Political Chief under the old system be paid.

3. That the government take such steps as were necessary to protect the colony and the province of Texas from the Indians. He recommended that a strong military force be established at Bexar.³¹

²⁹ Bastrop to Austin, May 6 and July 16, 1825, in Barker, *The Austin Papers*, I, 1087, 1147.

³⁰ Saucedo to the Governor, June 10, 1825, in Bexar Archives.

³¹ Bastrop to Ceballos and Viesca, May 2, 1825, in Barker, *The Austin Papers*, I, 945.

At the same time, he also sent a memorial on the conditions and needs in Texas. In this document he went into a lengthy discussion of the geography and resources of Texas. The points discussed in regard to legislation he desired in that body on behalf of the province of Texas and the representations he made were as follows:

1. That the problem of dealing with runaway slaves should be settled by the federal government, as in order to settle it, a treaty would have to be made with the United States.

2. With reference to the cultivation of tobacco in Texas, he attempted to show that it would be an economic asset to the government, and said that he thought the state government would be willing to pay half the price that the colonists might be guaranteed for the crop.

3. He brought up the fact that Trespalacios, while governor under the Imperial regime, had issued some paper money; and it would strengthen the public confidence for the government to redeem it.

4. He pointed out the fact that in 1814 the Spanish government had considered the establishment of ports at Galveston and Matagorda. He thought that Texas would develop rapidly if the Mexican government would put these projects into being.

5. Texas was lacking in facilities for postal service. He advocated the establishment of a better service. If the port of Galveston were established, he said, the government would find it necessary to better the service in order to carry on its own communications.³²

Viesca's reply to this letter and memorial was very general and indefinite. He did not discuss any of the issues introduced by Bastrop, and he stated in a general way that he would be glad to do anything for Texas that he could.³³ Ceballos evinced more interest in the requests that had been made of him. With reference to the proposition on tobacco culture, he assured Bastrop that he had introduced the measure into Congress, but as there was little interest or desire on the part of the deputies to grant it, he thought there would be little possibility of getting anything done about it. The deputies, he said, opposed it on the ground that

³² Bastrop's Memorial, *ibid.*, I, 947-952.

³³ Viesca to Bastrop, May 18, 1825, *ibid.*, I, 952.

to increase the crop that the government would have to buy, would injure the tobacco growers of the other sections, and thus result in injury to the nation as a whole.³⁴

As the special session was open only to specified legislation, he continued, he could not hope to bring up the matter of the salary of the Political Chief in that session; but that he had sought the aid of the government with reference to protecting the settlements from the Indians, and that Colonel Ahumada was being sent to Bexar to stop these depredations.

Bastrop now turned his attention to the legislature in an effort to get it to pass resolutions in the interest of Coahuila and Texas that Musquiz, at the time of his election to the national congress in March, had been instructed to present for the consideration of the national lawmakers. These measures presented by Musquiz were practically the same in each instance that Bastrop had taken up with Viesca and Ceballos.

In the same session of the legislature, April 9, Bastrop introduced a memorial of Stephen F. Austin urging that a port be established at Galveston.³⁵ On the same day, Bastrop notified Austin that it had been left to a committee to determine whether or not a resolution in accord with the memorial would be sent to Congress for its consideration.³⁶ The matter seems to have been disposed of by the legislature on May 2, 1825, as a memorandum bearing that date was found in the *Austin Papers* which is in the form of the bill which was later passed by the national congress.³⁷ Four days later Bastrop informed Austin that the matter was being discussed in the legislature and that he thought action upon it would be favorable.³⁸ On May 17 the resolution asking that the port be established was drawn up by the legislature and presented to the national congress.³⁹ Finally, in October of that year, the national congress passed a bill which provided for the establishment of a port and a customhouse at Galveston.⁴⁰ Bastrop had succeeded in carrying out another step in his program.

³⁴ Ceballos to Bastrop, June 8, 1825, *ibid.*, I, 952.

³⁵ Actas del Congreso Constituyente de Coahuila y Texas, 146.

³⁶ Bastrop to Austin, April 9, 1825, in Barker, *The Austin Papers*, I, 1071.

³⁷ Barker, *The Austin Papers*, I, 1086.

³⁸ Bastrop to Austin, May 6, 1825, *ibid.*, I, 1087.

³⁹ Actas del Congreso Constituyente de Coahuila y Texas, 159.

⁴⁰ Elosua to las Companias, October 17, 1825, in Bexar Archives.

The old Baron was in May of 1825 working frantically to carry out his program before his term of office expired in September of that year. In his letter to Austin of May 6, he gave some explanation of his problems, saying:

The bill providing for the cultivation and sale of tobacco is before the legislature, but I think that it will not be accomplished. Musquiz, who had charge of this, I think, is not my friend, but it is necessary to be patient in this matter. After four or five years, when we have 100,000 people in Texas, we can give them the law as they now give it to us, or can separate ourselves from them.

The proposition of handling runaway slaves and criminals is before the deputies, and also the matter of trade between the Americans and our Indians. I am trying to get new mail routes established.

You may rest assured that I have "pulled every wire that I can for Texas. . . ." (He movido todas las teclas que eran en mi alcance en favor de Texas.)⁴¹

This letter gives the best insight into the nature of Bastrop's statesmanship that we have. "Let's be patient," he says, "our time will come." His is the first prediction that Texas would some day separate itself from Coahuila. Bastrop was constantly, patiently, perseveringly, carrying on. These are the qualities that he had exhibited throughout his entire career in Spanish territory. Another quality that he shows in this letter is "loyalty." "You may rest assured that I have pulled every wire that I can for Texas." No man ever exhibited greater fidelity to a cause or to a friend than Bastrop had done to Austin and to the cause of Colonization.

On July 19, he introduced a resolution in the legislature asking the national government to reduce the postage rates in Texas. Since the days of the Spanish regime, a higher rate had been charged in the Interior Provinces than had been collected in the rest of the country. In the session of July 21 the resolution was given a second reading and referred to the Committee de Hacienda, to which all matters pertaining to fiscal affairs were assigned.⁴² This was as far as the matter ever got in the legislature, but the old Baron had done his best to get it passed.

⁴¹ Bastrop to Austin, May 6, 1825, in Barker, *The Austin Papers*, I, 1087.

⁴² *Actas del Congreso Constituyente de Coahuila y Texas*, 184-185.

At about this time Erasmo Seguin arrived from Mexico City, where he had been a representative in the national assembly under the previous regime and had been vitally interested in political affairs. In a letter to Austin, Seguin stated that he had strongly recommended the passage of a bill to create the harbor at Galveston. He further stated that Bastrop had been making an effort, with the aid of Valdez and Carillo, to have a primary school established in Texas. It is unfortunate that the measure did not carry; for Bastrop might have gone down in history as Texas' first educator.

With reference to slavery, Seguin told Austin that it was useless to agitate slavery with the Mexican government. The solution of the problem, he said, rested with Bastrop and his coadjutors, Valdes and Carillo, who might get laws passed in the state legislature which would nullify the provisions of the federal antislavery laws.⁴³

On July 30 Bastrop again introduced a bill with the purpose of having the legislature petition the superior government in the interest of Texas. This time he sought to petition congress to extend its session until legislation that had been recommended in the interest of Texas had been disposed of.⁴⁴ This measure came up for second reading and discussion on August 4th. Upon the motion of Carillo, it was decided that the Texas measures should be turned over to the Committee on Public Safety, which was to decide which of them the State did not have authority to legislate upon and recommend them to the National Congress.⁴⁵

In summarizing the results of his labors with the legislature on the measures that he hoped to have the national government pass, Bastrop wrote Austin in the middle of July saying:

It is getting to the point that I can accomplish nothing because of the rivalry between Coahuila, or rather Saltillo, and Texas.

With reference to the matters I have proposed to go to Mexico, some are being debated in the (National) Senate, some have been passed, others are pending, and some will be carried over to the January session. . . .⁴⁶

⁴³ Seguin to Austin, July 24, 1825, in Barker, *The Austin Papers*, I, 1156.

⁴⁴ *Actas del Congreso Constituyente de Coahuila y Texas*, 185.

⁴⁵ *Ibid.*, 190.

⁴⁶ Bastrop to Austin, July 16, 1825, in Barker, *The Austin Papers*, I, 1147.

He again entered into lengthy discussions with Viesca and Ceballos in order that they should not forget what he wanted done. On August 1 he wrote to Ceballos urging reduction of the postage rates, protection from the Indians, and payment of Saucedo's salary. He discussed at some length the redemption of the script that Trespacios had issued. All these matters, he assured Ceballos, were highly necessary to the welfare of Texas.⁴⁷

Ceballos replied that the President of the Republic had given him every assurance that the Indian troubles would be stopped. He was quite sure that the postage rates would be reduced, he said; and as to the other matters, they would have to wait until the next session of Congress, as there would not be sufficient time in which to dispose of them.⁴⁸

On August 19, Bastrop wrote a long letter to Viesca in which he discussed the measures he wished to have congress act upon. In answer to the objection that a concession to raise tobacco would hurt the inhabitants of other sections, Bastrop argued that if the colonists were permitted to export tobacco, it would be a great source of income to the nation, as Texas tobacco would bring higher prices on the American market than that raised in Kentucky and elsewhere. Furthermore, he contended, the colonists had been accustomed to using the sort of tobacco that they could grow in Texas, and he felt that to permit them to raise tobacco would save them the expense of buying it abroad. Laws could be passed, he reasoned, forbidding the sale of Texas tobacco in the interior.

He said that he had heard that the proposition incorporated into the Spanish decree of 1814 with reference to the establishment of ports at Galveston, at Matagorda Bay, and at the mouth of the Brazos, had been revived by the Mexican government. In case these ports were established, he reasoned, the government would need better means of communication in Texas. He recommended the establishment of post offices at Bexar, Nacogdoches, and San Felipe, with regular mail service between those points and with Natchitoches and Galveston. Such an improved service, with reduced postage rates, would do more than anything else could do to increase the commerce and the welfare of the province as well as of the whole nation.

⁴⁷ Bastrop to Ceballos, August 1, 1825, *ibid.*, I, 953.

⁴⁸ Ceballos to Bastrop, August 31, 1825, *ibid.*, I, 955.

He further urged a treaty with the United States concerning the handling of the problems arising out of the entrance of runaway slaves into Texas. This problem, he asserted, was extremely difficult to solve because of the international aspect of the situation, and because of the fact that these slaves roved in lawless bands within the limits of the government reservations on the border lands which were not open to foreign settlement. Lawlessness in this domain, he argued, was a problem that would have to be solved by the national government, as the state did not have the facilities for doing it. On the margin of the Colorado [Red] River, he said, was a settlement known as Pecan Point where some 300 families had settled without the permission of the government.

He said Viceroy Venedito had many times ordered this settlement on the Red River destroyed, but that he had no means of carrying out his orders. Bastrop recommended that a large force of soldiers be sent to Bexar, and that all the lawless bands in the province be driven out.

He further recommended that empresarios be held responsible for maintaining law and order in their grants, with a penalty of expulsion to be inflicted on all that did not comply.⁴⁹

Viesca's reply to Bastrop was the typical political answer—that he would do what he could for Texas, that measures were soon to be enacted, that a force of 1,500 men would be sent to Texas soon, and that conditions in the border reservations would be solved soon by treaties being negotiated with the United States. As to the other points, he said they must wait until the next session of Congress.⁵⁰

Summarizing, Bastrop had sought to interest the government in protecting the settlements from the Indians, improvement of the postal system, opening of a port at Galveston, expelling lawless bands from Texas, and granting the colonists the right to raise and export tobacco. As a result of his effort, the government had promised to protect the settlements from the Indians, it had promised to improve mail service and reduce the rates, had practically killed the measure proposed relative to tobacco culture in the colony, and had actually issued a decree providing for the establishment of a port at Galveston.

⁴⁹ Bastrop to Viesca, August 19, 1825, *ibid.*, I, 956-963.

⁵⁰ Viesca to Bastrop, October 4, 1825, *ibid.*, I, 963.

The Slavery Issue

Bastrop had accomplished most of what he was to do for the colony and for the province of Texas. During the entire year of 1826 and the Spring of 1827 the constitution of Coahuila and Texas was gradually taking form. When the state of Coahuila-Texas had been created in 1824, the legislature had been elected, and it had begun its organization in August of that year. As the members wished to work out a constitution covering most of the phases of the government, it had decided to devote its time to provisional legislation that could be placed into the constitution, and thus gradually work out the organic law of the state.

By 1826, sentiment in Coahuila and Mexico had somewhat crystallized against the colonial system. Many intelligent Mexicans had come to realize that the immigrants were not becoming assimilated as loyal Mexicans, and there was a clearly obvious reaction against measures that in any way lent themselves to the increase of the foreign element and to the advantage of this population.

The measure provided for in the constitution which was of most interest to the colonists was Article 13, which had taken form early in 1826, and which the colonists exerted all their efforts to defeat. Stephen F. Austin in August of that year advanced his celebrated constitutional argument against the measure. In an open letter to the legislature of Coahuila-Texas, he said:

Following the opinions of lawyers and of deputies of the constitutional congress, whose advice I asked in Mexico City, on Article 30 of the General Law of January 3, 1823, and on all the laws then pending, they permitted the introduction of slaves by the colonists for their own use and as their own property, and they were guaranteed security in the possession of said property. Therefore, the settlers of my first colony had the absolute right to bring their slaves as their personal property; and they did bring them under a solemn guarantee of the law.

Now what will the world say if in a direct violation of this law, the government takes from them this property without their consent?

There is nothing more important for all governments—especially new ones—than to establish a sound character and good faith. This is the basis of all confidence, the end of all things. . . .⁵¹

⁵¹ Austin to Legislature, August 26, 1826, *ibid.*, I, 1406.

The argument here presented by Austin was very similar to arguments advanced in favor of slavery in the United States. The constitution had guaranteed the citizens a right to own property, and had guaranteed security of possession. The constitution had permitted slavery also, therefore, to destroy slavery was to destroy the constitution. The arguments in Austin's case, however, were somewhat farther fetched than in the case of the slaveholding population in the United States. The constitution of Mexico had never recognized slavery as such. True, the colonization decree had set up the stipulation that colonists could bring in slaves, but their offspring should be free at fourteen. So the principle that one was born a slave in Mexico had in reality never been conceded by Mexican statesmen.

Austin continued by asserting that in good faith slavery could not be abolished in the case of those brought in by his first 300 families, because of the constitutional right that the colonists had to bring them. He reasoned that since it could not be abolished in the first colony, it would be unfair to abolish it in any of them. Such a conclusion was on its face illogical. It does not follow that because a part of the colonists were permitted to have them under a law that had been passed by a regime now extinct, those colonists who had brought them in when the law clearly did not give them an inalienable right to do so, should have had an absolute right to hold them.

The representatives in the legislature who were responsible for the bill had proposed to indemnify the colonists whose slaves were freed. This gave Austin the opportunity to argue that it was unfair to the people of Coahuila to tax them to pay for the slaves in Texas; and that the colonists could not be reimbursed if they had to pay the taxes which were paid to them in return for the loss of their slaves. That, in the main, was the argument of Austin against the prohibition of slavery.

Bastrop, in the meantime, was working in the interest of the slavery cause, but he was doing so more in an unofficial way than in the public sessions of the legislature. James Austin wrote Stephen F. Austin on August 22, saying:

The old Baron has strove hard for us. I know not what would have been our fate if he had not been in the legislature. . . . If a favorable slave law is passed, it will be attributed in a great measure to the unremitted exertions of the Baron. . . .⁵²

⁵² James E. B. Austin to Stephen F. Austin, August 22, 1826, *ibid.*, I, 1430.

On September 2, Austin's representation on the subject was read in the legislature, and, upon the motion of Bastrop, it was referred to the committee on the constitution.⁵³ On October 10 a memorial was sent to the legislature by the political Chief at Bexar in which he sought to show the confusion and dissatisfaction in the colony which the proposal to abolish slavery had caused. This memorial, Bastrop also moved to be passed to the Committee on the Constitution.⁵⁴ In a final effort to get favorable action, James Austin was sent to Saltillo. James wrote Stephen from that place on October 19, saying that it looked very encouraging; that most of the deputies had assured him that none of the colonists in the first colony would lose their slaves. He further thought it would be possible to make some arrangement for holding the children until they were about 25 years of age.⁵⁵

Bastrop, who had been reelected to succeed himself as representative in the legislature,⁵⁶ was both diligent and hopeful in efforts to keep the objectionable article out of the constitution. In his letter to Austin on November 18, he said:

All of my colleagues, except Carillo, have given me their word that they will vote that the slaves already in the colonies shall remain slaves. They have not decided at what age those born here shall become free. There can be no more introduced, but there will be a few months permitted to elapse before the law goes into effect. . . .⁵⁷

On November 30, 1826, the bill as introduced for further discussion provided:

The state absolutely prohibits forever slavery in all its territory, and the slaves that are there at the present shall be free from the day upon which the Constitution is published in their capital—a law shall be enacted to indemnify those that have them at the time of said publication. (El estado prohíbe absolutamente y para siempre la esclavitud en todo su territorio, y los esclavos que existen actualmente en el, quedaran libres desde el día en que se publique la constitucion en esta capital. Una ley arreglará el modo de indemnizar a los que tuvieron al tiempo de dicha publicación.)⁵⁸

⁵³ Actas del Congreso Constituyente de Coahuila y Texas, 352.

⁵⁴ *Ibid.*, 386.

⁵⁵ James to Stephen Austin, October 10, 1826, in Barker, *The Austin Papers*, I, 1473.

⁵⁶ Saucedo to Blanco, Sept. 17, 1826, in Bexar Archives.

⁵⁷ Bastrop to Austin, November 18, 1826, in Barker, *The Austin Papers*, I, 1505.

⁵⁸ Actas del Congreso Constituyente de Coahuila y Texas, 466.

The observations of Austin, the Governor, and the Ayuntamiento at Bexar were introduced at this point. In the debate that followed it was impossible to dispose of the matter; and it was tabled for further consideration by the committee.

In the session of January 2, 1827, the matter arose again, and further arguments of Austin, Burnet, and Woodbury were introduced and referred to the committee.⁵⁹ Finally on the 18th, the chief argument on the bill was heard; and, as a result of that session, the bill was returned to the committee.⁶⁰

On the last day of January of 1827, the article as amended passed, and it read as follows: "In this state nobody shall be born a slave; and six months after the publication of this constitution in its entirety, neither shall the introduction of slaves be permitted under any pretext. . . ."⁶¹ When this article was disposed of, the old Baron was not in the chamber. He had been ill since early in that month, and had not attended any of the sessions.⁶²

Bastrop's career as a legislator was in reality at an end. He had gotten the colonization law passed, he had been instrumental in getting the national government to act favorably on Austin's proposal to establish a port at Galveston, he had worked diligently to assist all that had called upon him for help while he was a representative in the legislature, and he had doubtless done a great deal indirectly for Texas.

CHAPTER VI

BASTROP'S DEATH, WILL, AND IMPORTANCE

Bastrop left the legislative chamber January 3, 1827, never to return. The journal of the house reports him absent on account of illness on each successive meeting of the chamber thereafter, until February 23, at which time it was reported that the Baron had died at 10 o'clock that morning. The president of the body appointed a committee composed of Deputies Ramos, Varela, and Pena to assist in the interment of the body, and to give financial aid if they found it necessary, the state fund to be used to insure the Baron a respectable burial.¹

⁵⁹ *Ibid.*, 491.

⁶⁰ *Ibid.*, 500.

⁶¹ *Ibid.*, 513.

⁶² *Ibid.*, 510.

¹ *Actas del Congreso Constituyente de Coahuila y Texas*, 535.

On the next day the committee reported Bastrop had been given a funeral befitting one in his station of life. He had not been in possession of sufficient money or goods to meet the expenses, but Antonio Padilla, in whose house Bastrop had lived during his residence at Saltillo, had met them in the best manner possible. The deputies then went into a discussion of means to provide the funds to reimburse Padilla. It was provided that such an appropriation should be made, and the name of Bastrop does not again appear on the journal of the house.²

Few deaths pictured in history or in literature arouse more pity and sympathy than that of the Baron de Bastrop. Since the information as to the details of his death and last hours is so limited, the loneliness of the Baron as he faced death far from his home and friends, and the sorrow of his heart as he looked back over a life that he had lived for others in his privation and toil, can only be imagined. His thoughts must have been of home and friends that he had left behind him. Possibly there was a ray of sunshine in the gloom if he thought of the many kindnesses he had shown others; for his had been a life of service.

About the only thing in the way of a personal record left behind him now accessible is his will. This instrument was written by Padilla in the presence of two witnesses who saw him take the deposition.³ According to the testimony of the young American physician, Cranel, Bastrop was sound in judgment at the time he made his will and testament.

With reference to his early history, Bastrop said:

In the name of Almighty God, be it known by all that shall read this testament that I, Felipe Enrique Neri, Baron de Bastrop, native of Holland in Europe, more than sixty years old, legitimate son of Don Conrado Lorenzo Neri, Baron de Bastrop, and Susana Maria Bray Banguin, of the Roman Apostolic Catholic religion, being aware that I am to die, capable of judgment, and believing that with sound faith and confidence in all the mysteries and dogmas of our Sacred Roman Apostolic Catholic faith, make my last will and testament in the following terms:

I will that my body be buried appropriately in a sacred place according to the decision of my executors.

² *Ibid.*, 536.

³ Bastrop's Will, January 16, 1827, in Barker, *The Austin Papers*, I, 1581.

I declare that I have been married in facie ecclesie to Dona Georgina Wolfelina Francisca de Lyklama-Neyholt, legitimate daughter of Don Augustin Lyklama-Neyholt and Dona Susana Baronesa de Warttemberg Nohynlandsberger. I have been a widower since the year 1811. As a result of our marriage there was born to us four daughters in the order named and one son, whose names are Dona Susana Maria, Christina Marta, Conrado Lorenzo Carlos, Marta Kinama, and Augustina. Of these, the last two are living in Holland, but I do not know whether they are married as it has been several years since I heard from that country.

I further declare that all my goods and possessions in my native land were confiscated in 1795, and were restored to my wife in 1808, and should have passed to her children upon her death; therefore I make no disposition of those lands and goods in this instrument. . . .⁴

With reference to the property which he claimed to have acquired in the territory then a part of the United States, he said that he owned 106,000 arpents of land in the County of Harrison, Virginia, and that in Ouachita County, Louisiana, he possessed 100,000 arpents of land that had come into his possession by virtue of the grant of twelve square leagues made to him by the Spanish government, and that he owned in that county a ranch called "Las Cotas."

A check on the records of the land office of the present state of West Virginia, of which the County of Harrison became a part when the State of Virginia was divided into two states, shows that no title to land in Harrison County was ever recorded to establish this claim in the Baron's will.⁵

As to his holdings in Louisiana, he had, as has already been shown, received a grant of twelve square leagues from Carondelet in 1796. In an agreement entered into with Morehouse and Lynch on May 14, 1805, Bastrop had conveyed to these men all of his holdings in the twelve square leagues except 100,000 arpents.⁶ On January 11, 1825, however, a congressional committee in settlement of a number of claims arising out of Bastrop's grant, made the following statements:

1. That this land had not been granted to Bastrop, but that he had been made the agent of the government to settle families

⁴ *Ibid.*, I, 1581-1582.

⁵ Lawson to Hatcher, November 24, 1931.

⁶ Agreement between Bastrop, Lynch and Morehouse, May 14, 1805, in *Senate Executive Documents*, 32 Cong., 2 Sess., no. 4, pp. 24-27.

upon it; and that if he were entitled to any land from it, it could be only that portion not taken up by the required number of families.

2. That Carondelet, who had made the grant to Bastrop, did not have the authority to do so, and that the Spanish crown had never approved the grant.

3. That the conditions of the contract were never satisfied by Bastrop.

4. That the Spanish government had, in fact, revoked the grant. . . .⁷ Bastrop's claim to land in Louisiana, therefore, was not well established, and his claim to land in Virginia was not based on any record now available.

He then said that his holdings in Texas were as follows:

1. Four sitios of grazing lands in sight of the Guadalupe River.

2. Twenty-four solares of land at Bexar near El Paso de los Gatos.

3. Two solares of land in the place called Tio Geronimo, his holdings being located near the river.

4. Six solares of land in the Alameda, across from the holdings of José Le Baume.

5. A stone house on the corner of the Plaza.

6. Various articles of personal property which he listed.⁸

According to his statement, there were a number of accounts which were outstanding against him, and a number of debts were owned him. He willed that his administrators should collect what was due him and pay all that he owed to others. They were to sell all his property, and the income, together with the difference between what was due him and what he owed others, was to go to his children after one-fifth of the total was deducted and given to Dona Victoriana Le Baume, whose father had been his closest friend for many years and in whose home at Bexar Bastrop had lived several years.

⁷ *American State Papers, Public Lands*, IV, 11.

⁸ Bastrop's Will, January 16, 1827, in Barker, *The Austin Papers*, I, 1581.

To José Le Baume he left his personal property, consisting of mules, oxen, implements, etc. It is probable that he left a very good library in the Le Baume home. Reference to this library in the letters of Stephen F. Austin to his brother, James, indicated that the Baron had quite a collection of English books. It is quite likely that he did not take this library to Saltillo with him. It is quite possible that there is today in San Antonio a collection of Bastrop's papers, books, etc., that would throw much light on the personal life of the Baron de Bastrop.⁹

Bastrop named Stephen F. Austin, Antonio Saucedo, and Juan Antonio Padilla as first, second, and third administrators, respectively, of his will. He named John Nancarrow as the representative of his estate in the United States, requesting that he confer with these administrators and give an account of how he disposed of this property.

This will was recorded in Saltillo on February 28, 1827. Whether his family ever received any of the land he left them, is not easily determined; but it is not likely that any of his heirs ever presented their claims. Records in the *American State Papers* do not reveal that the Bastrop heirs ever did, and there are records of claims in the Bastrop grant up to as late as the 1850's. However, a lawyer by the name of George MacDonald wrote a letter from New Orleans to W. Tunstall, a lawyer who once lived in San Antonio, in which is found the following sentence: "In regard to the Bastrop estate, the parties at home took the amount in hand to be \$3000 or 600 pounds. . . ."¹⁰

An Estimate of Bastrop and His Work

In this age of critical scrutiny of all characters that might by any chance be entitled to a place in history it is appropriate to recite evidence that might in any way suggest suspicion of rascality or moral turpitude in the subject of the sketch. In the case of the Baron de Bastrop, it is quite possible that he had not always "kept his skirts clean," and, indeed, that he may have

⁹ Descendants of the Le Baume family still live in San Antonio. Through Mrs. Mattie Austin Hatcher, the writer of this thesis got the name and address of Mrs. John Sammons, a direct descendant of José Le Baume, from her mother-in-law, Mrs. Edward Sammons of Austin, but a letter of inquiry directed to the lady, failed to receive any attention from her.

¹⁰ MacDonald to Tunstall, November 19, 1860, in Tunstall Papers, Archives of University of Texas.

fled to the Spanish provinces to escape not the wrath of the French Revolution, but the results of some of his indiscretions in other parts of the world.

In one of the few personal letters in which Bastrop gives expression to his ideas, he made one of the still fewer philosophical expressions coming from him that are now known. In this letter to Austin, the old Baron said, "If you would have enemies you must love them well." Whether the man spoke from the knowledge his many years of experience had imparted to him, or whether he quoted from a learned scholar on this point, is not easily determined; but in any case, the good that he did had hardly been "interred with his bones" before one whom he had befriended attacked his reputation. This indictment is given a place in this work in the hope that it will create in the mind of some person interest to inquire into the early history of the Baron de Bastrop in an attempt to bring to light those interesting personal incidents in the man's life, that so far have not been gleaned from the meager material thus far searched through for glimpses of the Baron de Bastrop.

The unfortunate and disgruntled Haden Edwards journeyed to Saltillo in the year 1825 to procure for himself a grant of land under the colonization law which Bastrop had worked faithfully to have enacted in the interest of the province and for the benefit of those capable of profiting by it. Here Edwards sought the aid of Bastrop in his undertaking. Not only did he seek it, but according to his own story his cause must have been greatly helped by the old Baron, who was not then dead. So sure was he that Bastrop had helped him that he urged that the old Baron be reelected to the legislature.¹¹

In a fragment of a voluminous letter written by Edwards under date of November 22, 1827, he has this interesting history of Bastrop to offer "in the interest of the great Mexican nation":

I am now in a few lines, with the same purity and truth as I did in the case of Austin, going to set forth the scandalous conduct of his friend Baron de Bastrop.

In the year 1795 he presented himself to Baron de Carondelet, Governor at New Orleans under the Spanish regime,

¹¹ Edwards or Leftwich to Austin, May 12, 1825, in Barker, *The Austin Papers*, I, 1093.

telling him and, with false documents, convincing him that he was a Baron of Dutch nobility, emigrating to this country to escape the clutches of Napoleon, who had confiscated all his goods & property.

The Baron de Carondelet thought he was a Baron; and in consequence the said Bastrop received an immense grant of lands, at the same time making an advantageous flour contract with him to establish a flour mill in consideration of another liberal grant of land.

At the same time he induced me to join him, for at that time he had neither property nor funds. He then presented his papers to merchants of the United States; whereupon he received credit for 400,000 pesos in money, and besides by great exertion he acquired stock in public funds of his own country, paying for this in bills of exchange on Banks of Holland in which he had left a deposit of 30,000 pounds sterling when he escaped the clutches of Napoleon.

But the most striking and extraordinary thing about it was that when the bills of exchange were presented for payment to the Dutch Bankers, they answered that they could not pay, that they did not know any such Baron, that they had never heard any one speak of such title in that nation or dominion. We, therefore, supposed that the said Baron was nothing more than an adventurer, an imposter, and a counterfeiter, with the attributes of a reputable man.

Consequently all the persons who gave him these amounts lost them all, and immediately I and others deserted him, regretting our bad luck, and even his. He then fled from that nation to this; and never again for more than twenty years did we hear his creditors speak of him.¹²

Edwards had probably known Bastrop in Louisiana. Most of the adventurers of the United States at one time or another went to Louisiana, and few of them failed to make the acquaintance of Bastrop. Not only that, but Bastrop in a letter to Austin in 1825 said that he had known Edwards for more than twenty-five years. So it is quite likely that Edwards and Bastrop had had some dealings together before Bastrop came to Texas.

¹² Edwards to (?), November 22, 1827, *ibid.*, I, 1725.

The rest of Edwards' accusations may have had some basis in fact, but the conduct of Bastrop that has been revealed by the records in the Spanish archives, if not noble, was at least such as to mark him as a man of honest purposes, and a square-dealing individual with all people. The worst possible accusation that might be proven on him was that he was engaged in smuggling; and the fact that the Spanish trade laws encouraged this illicit traffic in honest goods, and the Spanish officials were not beyond engaging in it, might be pleaded in mitigation. Even this accusation would have to be proved.

But it is not for his orthodox principles that the man is important. If we analyze his character from the standpoint of his deeds and achievements, we find that he was endowed with a few very good traits if judged by any standard of ethics. In the first place, he was willing to help others, as has been demonstrated by his attitude toward the project of the Austins and by the letters of the officials of the Spanish and Mexican regimes.

Furthermore, he was loyal to his friends. His relations with Seguin, Saucedo, and Austin indicate that he was ever willing to do anything for them that he could. He probably thought as much about Saucedo's welfare when he proposed the creation of the *Jefetura Politico* in Texas, as he did about its value to Texas.

He was a diplomat of the first order. The fact that he could get the concessions from Carondelet, from Salcedo, and from others, especially when the officials of the Spanish government were so suspicious of foreigners, the fact that he succeeded in getting from Austin the permission to settle in Texas, and the fact that he succeeded in his role as the representative of Texas in the legislature, all point to the conclusion that he knew how to deal with the Mexican mind.

From the standpoint of achievement, it is sufficient to say that he more than anybody else, made possible the entrance of Americans into Spanish and Mexican territory. He, more than anyone else, worked with the government in such a manner as to get concessions and considerations for them after they arrived there, and it was he, more than anyone else, that secured the enactment of laws to promote the development of Texas.

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FIVE EARLY LOUISIANA IMPEACHMENTS

By CORTEZ A. M. EWING

Though not utilizing the impeachment remedy so frequently as have some other American states, such as Pennsylvania, Louisiana has had at least normal experience with this political technique. But the first five impeachments in Louisiana have received but scant attention. They represent lost chapters in the history of the state. And a close study of them throws considerable light upon the politics of obscure periods.

1. JUDGE B. C. ELLIOTT (1844)

The first Louisiana impeachment that has come to my attention was that of Judge B. C. Elliott in 1844. He was Judge of the City Court of Lafayette, then a suburb of New Orleans. The impeachment, oddly enough, resulted from an alleged violation of the laws of the United States and not of the State of Louisiana. The national laws involved were those governing the naturalization of aliens in state courts.¹ In the summer of 1843, in anticipation of the general election of the following year, there appeared in the *Bee* and in the *Tropic*, two New Orleans newspapers, certain advertisements which advised all persons desirous of being naturalized as American citizens to communicate with one Colonel William Christy. This gentleman, an attorney, was a strong supporter of the presidential candidacy of Henry Clay, and the advertisements were presumably intended to increase the number of Clay votes in 1844.

Meanwhile, the Democrats were not caught napping; they devised a more effective method of capturing the "foreign" vote. They dispatched a delegation to wait upon Judge Elliott, whose court was competent to grant citizenship, "to bargain with him for the lowest price to naturalize foreigners—Democrats."²

¹ These were the statutes of 1802 and of 1824.

² See the minority report of Louis Selby, *Louisiana House Journal*, 1844, pp. 68-72.

Though the Judge originally held out for five dollars, he was finally persuaded to accept the flat rate of three dollars per head. In the final stages of the negotiations he was represented by his Clerk, Mr. Phelps. Thereafter the City Court of Lafayette entered into the wholesale naturalization business. Between March, 1841, and December, 1843, no less than 1,748 alien minors were granted their certificates by that Court, and the greater part of these were issued in late 1843. This total does not include all naturalizations, but only those of aliens who were made citizens upon reaching legal majority.³ Procedurally, in Judge Elliott's court, the naturalization process was nothing more complicated than a perfunctory registration, for the papers were granted by his Clerk when the Court was not in session, and during the latter part of the period it was not even necessary for citizenship applicants who resided in New Orleans to make the short journey to Lafayette. All the details could be handled by willing agents or through correspondence. In all fairness it should be noted that the Elliott citizenship mill was not operated under the advanced procedural machinery that later characterized the production of naturalized American citizens. The Lafayette mill was never able to turn out as many as four hundred citizens in a single day. Its banner day was September 21, 1843, when three hundred and eighty seven were inducted into the body of United States citizenry.

When the Legislature convened in early 1844, Colonel Christy, none other than the original advertiser for citizenship candidates, preferred charges against Judge Elliott in the lower house, alleging malfeasance in office. A special investigating committee was appointed. On February 24, it reported in favor of Judge Elliott's removal.⁴ Apparently, the committee intended

³ The law of 1824 provided specifically for the naturalization of alien minors who had resided in the United States three years next preceding the attainment of the age of twenty-one.

⁴ *Louisiana House Journal*, 1844, pp. 60-72. Three members signed the majority report, which was presented as a formal indictment of ten specifications. All of these accusations related to alleged illegal procedure in the issuance of citizenship certificates. The preamble of the report is an interesting document. It read:

"Our liberties depend upon the pure exercise of the right of suffrage. If we suffer that right to be abused and polluted, to be extended by fraud and corruption, or by carelessness and loose practices, to those not entitled to it by the Constitution and laws of the State, our Government will at once degenerate from its high republican character and sink into a tyranny.

"Hence it becomes us to guard with the greatest vigilance against every encroachment on the right of suffrage, and to discountenance and reprobate on the part of those to whom the administration of the naturalization laws is confided, any remissness or failure in the discharge of their duties.

"The right of suffrage is the very life-blood of liberty. It is inseparable from the political equality and independence of man; it is essential to citizenship, and its honest exercise is alike the safety and the glory of popular rule. It should then be maintained in its highest purity, and especially by its elected guardians, the officers of the law."

This preamble has, in its numerous inaccuracies, sufficient of the necessary qualities to make it a political canard.

that the address procedure, and not impeachment, would be employed to effect the removal. In a strong minority report, Mr. Selby intimated that politics was the dominant and motivating factor in the investigation. In his opinion, the irregularities of Judge Elliott's Court, admitting them to exist, were not sufficiently flagrant to merit the extreme pains and penalties of impeachment. He wrote:

This to me seems the most severe punishment to an American citizen which can be inflicted under our jurisprudence. To a man with a large family and respectable connexion, what can be more excruciating? He who receives such a sentence is like Cain, an outcast from society, with a mark upon him, which when death relieves him from it, falls upon his innocent children, like the curse of Canaan fell upon his posterity, who still continue to feel the ignominy descended to them from their father.⁵

Before the House disposed of the committee report, the *Herald*, in defending Elliott, charged that the investigation had been conducted in an *ex parte* manner.⁶ All members of the committee, including Mr. Selby, denied the charge on the floor of the House. The House displayed considerable hesitancy in the consideration of the report. It was carried forward on the calendar from day to day. On March 5, ten days after it made its formal report, the committee received permission from the House to take further testimony.⁷ Three days later, Randell Hunt, chairman of the committee, called up the report, and offered a resolution inviting Judge Elliott to appear before the House and make his defense. Judge Elliott responded by appearing in person and by counsel, but before he was given an opportunity to present his case, the House adopted a counterresolution rescinding the invitation. The House thereupon engaged itself in a further consideration of the report which, following some abortive filibustering tactics on the part of the opposition, was adopted by a vote of thirty-six to nine.⁸ On the next day, March 9, the House formally adopted a resolution of impeachment.⁹ The vote was thirty-one to six. A board of managers of five members was selected by the Speaker.

⁵ *Louisiana House Journal*, 1844, p. 68.

⁶ *Ibid.*, 74; *Daily Picayune*, Feb. 28, 1844.

⁷ *Louisiana House Journal*, 1844, p. 85.

⁸ *Ibid.*, 91. The *Daily Picayune* remarked that Mr. Ogden moved that consideration of the report be suspended and the committee instructed to recommend impeachment, rather than mere removal. However, the official *Journal* conveys no such information.

⁹ *Ibid.*

On March 18, the managers submitted four articles of impeachment which were adopted on motion. The managers were instructed to repair to the bar of the Senate and impeach Judge Elliott of high crimes and misdemeanors.¹⁰ The instructions were carried out on the day following.¹¹ It is difficult to explain why the Senate was not informed of the impeachment immediately upon its adoption in the House on March 9th. It is unusual for so long a period of time to intervene between these two essential steps in regular impeachment procedure. Also, there is no reason, except that the House did not so order, why the managers did not, on the 19th, exhibit the articles of impeachment before the Senate; the formal charges had already been adopted in the House. Instead, the managers merely announced that the House would, in due time, exhibit particular articles of impeachment against Judge Elliott and make good the same. The four articles were formally exhibited on March 20th.¹²

In abbreviated form, the articles alleged:

1. That Elliott, during his tenure of office, has failed to comply with the mandate of the law in regard to the keeping of official records of his court;
2. That he, well knowing the naturalization certificates to be false, permitted Phelps to issue these certificates contrary to law, to the number of 1,784, thereby committing fraud and acting in a manner subversive to the policy of the United States;
3. That he, fraudulently, permitted the issuance of certificates of citizenship, and specific allegations of the same are named and listed in nineteen separate specifications;
4. That he caused and permitted 387 of these false certificates to be issued on one day, September 21, 1843, and that he "was instigated and moved by a corrupt love of lucre, and a desire of unlawful gain, and that he has corruptly and unlawfully received at various times, and from several persons, divers sums of money for the certificates of naturalization. . . ."¹³

On March 22, the answer of Judge Elliott was presented to and received in the Senate. The impeachment court had not yet been organized. This acceptance of the respondent's answer by

¹⁰ *Ibid.*, 106.

¹¹ *Louisiana Senate Journal*, 1844, p. 68.

¹² *Ibid.*, 71.

¹³ *Louisiana House Journal*, 1844, pp. 105-106.

the Senate as a legislative body is open to serious criticism, but the early impeachment trials reveal some confusion as to whether impeachment proceedings were legislative or judicial in character. The point, however, is somewhat academic, as the difference between the Senate and the impeachment court is more a distinction than a real difference. On March 23, the Senate organized itself as a court of impeachment, the articles were formally presented, and matters relating to the conduct of the trial were agreed upon.¹⁴ The Legislature adjourned *sine die* on March 25, but that adjournment did not, of course, interfere with the sittings of the impeachment court. The actual trial began on March 26 and was completed on April 6. Five days were given over to the final arguments, which featured Randell Hunt for the managers and Pierre Souleé for the defense. The concluding speech of the prosecution was finished at three p. m. and the court went immediately into secret session. This practice of retiring for a secret discussion of the evidence was the general practice in that period; it has now generally been abandoned in favor of open sessions. At ten p. m., the doors were thrown open and formal votes were taken upon each of the articles. The impeachment was sustained. No more than four members voted to acquit on any one article.¹⁵ A resolution was adopted declaring the office vacant, though there is no record that Judge Elliott was disqualified from holding office in the future. Another resolution was enacted which declared that the judgment of the impeachment court was not to be considered as an expression of opinion by the court as to the validity or invalidity of the naturalization certificates that had come from Judge Elliott's citizenship mill. An impeachment of a state officer for violation of national law represents a novel precedent in American impeachment history. Since the facts relative to the granting of citizenship are *res judicata*, if the applicant is not found guilty of fraud, an interesting problem in federal relations might have been raised. Certainly, the judge could not have been impeached by the national House of Representatives, even though he had violated the laws of the United States. On what authority could, and did, the Louisiana Legislature impeach and remove Judge Elliott for violation of national law? To answer this question, compendious and erudite treatises

¹⁴ *Louisiana Senate Journal*, 1844, p. 76; *Daily Picayune*, March 24, 1844.

¹⁵ *Tropic*, April 8, 1844. The vote on each article was as follows: Article I, 11 ayes to 3 nays; Article II, 10 ayes to 4 nays; Article III, 11 ayes to 3 nays; Article IV, 10 ayes to 4 nays. Davidson, Lacoste, and Ledoux voted for acquittal on each ballot; and Walker voted thusly on the second and four articles.

on the constitutional law of the United States federalism are entirely unnecessary. The Louisiana court of impeachment rendered superfluous such discussion and made the removal a *fait accompli*.

There exists no doubt that Judge Elliott was guilty of the specifications charged in the articles. He merely threw himself, with some dignity, upon the mercy of the impeachment court. The immediate repercussions that followed his removal related to whether he was a Whig or a Democrat. Instantly, he became an object of opprobrium to the politicians of both parties. The *Courier*, a Democratic journal, maintained that Elliott was a Whig and that the Whigs had "betrayed him to his ruin"—seduced him from the path of duty, and made him the rascal that the Senate has declared him to be." The *Tropic*, for equally partisan reasons, produced evidence to prove that Elliott had been formally elected to membership in the locofoco Democratic Association of Louisiana.¹⁶ As a matter of fact, Elliott was neither a Whig nor a Democrat. He was a boodler, and was caught red-handed in his corruption. That he had willing accomplices is not denied, but that fact is of little importance except to incite a measure of sympathy for him because the slippery politicians went unchastized. The annals of American impeachment are replete with cases involving such victimization.

2. AUDITOR GEORGE M. WICKLIFFE (1870)

The second impeachment in the political history of Louisiana was that of George M. Wickliffe, Auditor of Public Accounts. Impeachments result, in a majority of instances, from party defections and from internal party disorders. This one sprang from such division within the ranks of the Republican Party in Louisiana. Governor Henry Clay Warmoth strove assiduously to assert his mastery and to dominate the whole governmental organization of the state. To achieve this purpose, and to make the state safe for the reconstructionists, he was instrumental in the creation of the Metropolitan Police system. With his powerful organization at his beck and call, he wreaked his will upon all opposition, regardless of its character. Wickliffe was a constitutional officer, and was elected to his position by popular vote. Evidently, he had his own ideas as to whom he was responsible for

¹⁶ *Ibid.*, April 9, 10, 1844.

the conduct of his office. That he was a carpetbagger, and an adept boodler as well, is not doubted, for his attorneys did not deign to deny it during the impeachment trial. Most of Wickliffe's support came from those who hated and feared the tyranny of Warmoth's military regime.¹⁷ Especially was this true of those in the Republican ranks who sought to challenge the Warmoth leadership and of the Secession Democrats, who, for political reasons, hoped to precipitate a serious scandal in the administration.

Governor Warmoth loved authority. Having been a high military commander during the late war, he was in the habit of exercising power. He was elected Governor in 1868, when he was but twenty-six years of age.¹⁸ Early in 1869, he began cracking his whip at Wickliffe. The latter resented the dominance. In March, largely through the influence of Warmoth, a grand jury returned fourteen indictments against Wickliffe, charging him with extortion, corruption, and the issuance of illegal warrants.¹⁹ He was immediately placed under arrest. Pending the outcome of the trial, the Governor appointed L. T. Delassize, a Negro, to serve as Auditor *ad interim*. The indicted officer refused to surrender his office to Delassize, so the Metropolitan Police, under verbal orders from Warmoth, ejected him.²⁰ Wickliffe denied the authority of the Governor to remove, suspend or replace a constitutional officer, and in this contention he was supported by a considerable *bloc* of legal opinion in the state. On these grounds, Wickliffe set up "the Auditor's office" across the street from his old location, and he warned the public to have no official relations with Delassize. He also obtained a writ from the Seventh District Court restraining the Auditor *ad interim* from acting as Auditor. The Governor was instrumental in having the Fifth District Court issue another order restraining Wickliffe from acting as Auditor.²¹ So, for a time, Louisiana had two Auditors, neither of whom could, without violating an order of a court, perform the legal functions of the office.

¹⁷ Ella Lonn, *Reconstruction in Louisiana after 1868* (New York and London: G. P. Putnam's Sons, 1918), 48.

¹⁸ For accounts of Warmoth's early life and war record, see his own memoirs, entitled *War, Politics and Reconstruction: Stormy Days in Louisiana* (New York: Macmillan Co., 1930); Alcée Fortier, editor, *Louisiana, . . . in Cyclopedic Form* (Atlanta: Southern Historical Association, 1909), II, 606; Claude G. Bowers, *The Tragic Era; the Revolution after Lincoln* (Cambridge: Houghton Mifflin Co., 1929), 363.

¹⁹ *American Annual Cyclopedic*, 1869, p. 397.

²⁰ *Proceedings of the Senate as a Court of Impeachment for the Trial of George M. Wickliffe*, 112-114. Hereafter this document, which is bound with the *Louisiana House and Senate Journals of 1870*, will be cited as *Wickliffe Impeachment Proceedings*.

²¹ *American Annual Cyclopedic*, 1869, p. 397.

The trial of Wickliffe upon the grand jury bills began in late April. Acquitted on the first charge, he was immediately arraigned upon the second. The jury again brought in a verdict for acquittal, for which the judge delivered a strong reprimand.²² Thereafter, the judge announced that he would accept a *nolle prosequi* for the remaining counts against the Auditor, upon the ground that there existed practically no probability of a conviction. The District Attorney obliged, and the other twelve charges were dismissed on May 11.²³ In his recent memoirs, Warmoth attributes the dismissal to partisan politics.²⁴ Frustrated in his efforts to dislodge Wickliffe, the Governor had no alternative to permitting him to resume his office, which was immediately effected. The hostilities between the two lapsed into desuetude, and remained in that state until December. Then Wickliffe attempted surreptitiously to move his office back to Mechanics' Institute, where it had been located prior to the March fiasco. When Warmoth heard of the Auditor's action, he immediately ordered his efficient and ever-willing Metropolitans to evict the poacher. Without further ado, the police proceeded to pile the records and equipment of the Auditor's office upon the sidewalk outside Mechanics' Hall. The Auditor returned crestfallenly to Conti Street.

The harassment of Wickliffe continued. When the Legislature met in regular session in early January, 1870, there were twelve indictments pending which had been filed against Wickliffe by the grand jury of Orleans Parish.²⁵ On the third day of the legisla-

²² The failure of juries to convict for palpable crimes is one of the features of the Reconstruction period that historians mention with unnecessary reluctance. This species of sabotage was practiced on a wide scale but because of its very nature, its correction was virtually impossible unless the judges employed tyrannical and oppressive measures. If they did attempt to realize a measure of justice by these harsh means, they were immediately branded as judicial tyrants, as reincarnations of the contemptible Jeffreys. Naturally, pursuant to the traditional American fear of governmental tyranny, the populace turned against the judges, though admitting that justice was not achieved in the absence of these harsh measures. Many judges were removed by carpetbag governors to prevent serious political repercussions. When attempts were made to shield them, impeachment or address proceedings would be launched against them. The history of Texas Reconstruction during the administration of Governor Davis offers conspicuous examples of this public condemnation of judges who sought to dissipate the sabotage of juries in criminal cases. However, this whole feature remains an unwritten chapter in Reconstruction history.

²³ *American Annual Cyclopaedia*, 1869, p. 398. Warmoth says that he called upon the judge and the district attorney and urged them to continue the trial. See *War, Politics and Reconstruction*, 85.

²⁴ Warmoth, *War, Politics and Reconstruction*, 85. A better explanation is that the court was of opinion that a constitutional officer could not be tried for malfeasance until after his removal from office. Therefore, from the viewpoint of jurisdiction, the courts would have to wait until Wickliffe was impeached and removed or until his term of office expired. The Democratic press remained neutral or supported Wickliffe during the controversy. This presumably derived from unreconciled opposition to Warmoth rather than from any feeling that Wickliffe was an honest and conscientious official. Miss Lonn's study, *supra*, is not at all profound, but she has laboriously searched the newspaper sources for materials and has inserted them in orderly fashion. She gives therein the policies of the *Bee*, the *Bulletin*, and the *Picayune*.

²⁵ *Louisiana House Journal*, 1870, p. 13. These bills related to Wickliffe's issuance of warrants under the authority of an act providing pensions for the veterans and widows of veterans of the War of 1812. He had issued such pension warrants indiscriminately, aggregating over \$200,000. The grand jury investigation discovered but one hundred fifty persons legally eligible. Nearly 1,000 persons had been granted pensions by the Auditor.

tive session, January 5, 1870, the Governor submitted formal charges against Wickliffe in the lower house. As a preamble to the specific allegations, the message read:

It becomes my duty to communicate to your honorable body grave charges against George M. Wickliffe, Auditor of Public Accounts. His offenses against the constitution and laws of the State have seriously embarrassed the government and rendered it difficult to pay the interest on the State bonds. He has been guilty of numerous acts, involving extortion against individuals and against the charitable institutions of the State, also involving fraud against the commonwealth and collusion with evil disposed persons to defraud the same. He has extorted sums of money from the creditors of the State as a condition precedent to the issuance to them of the certificates of indebtedness of warrants to which they were entitled by law.²⁶

The House received the message and provided for the appointment of a committee of five to conduct the investigation. Opponents of Warmoth secured the passage of a resolution calling for the investigation of the Metropolitan Police Board. The counterresolution may have represented a trade in the lower house. On January 11, Wickliffe politely informed the House that every facility of his office would gladly be placed at the disposal of the committee, in order that there might be effected "a final determination of the malicious persecution" to which he had been subjected by "an ambitious and unjust man," the Governor of the State.²⁷ Threatening to take the case into the courts if the constitution and laws of the state relating to impeachment were not strictly followed, Wickliffe demanded that he be granted the privilege of addressing the House, either in person or by counsel. The demand was not complied with, and when his attorney sought to protect his client's interests in the investigation, he was summarily ejected from the committee room. The whole investigation was clearly an *ex parte* affair, and revealed the Governor in exclusive control of it.

On February 1, the investigating committee reported in favor of impeachment, which report was adopted by a vote of seventy-six to three.²⁸ A joint resolution suspending Wickliffe was immediately introduced and passed by the House. The Senate

²⁶ *Ibid.*, 11-13.

²⁷ *Ibid.*, 24, 25.

²⁸ *Ibid.*, 141. The vote was not spread upon the *Journal*. Apparently, the committee was unanimous in its recommendations, for no trace of a minority report is to be found.

concurrent three days later.²⁹ Curiously, this suspending resolution was received in the Senate and passed through two readings before the Senate had been officially notified of the impeachment.³⁰ The use of a joint resolution to effect a suspension of an impeached officer is not a common procedure. Usually, state constitutions and laws provide for the suspension upon the legal and complete consummation of the impeachment, which consummation is interpreted to be realized when the House formally exhibits articles of impeachment at the bar of the Senate.³¹ The Louisiana Constitution of 1868 made no provision for suspension of impeached officers pending the outcome of the trial.³² In the absence of such provision, the joint resolution medium represented the sole means by which Wickliffe might be temporarily ousted. It is interesting to note that Governor Warmoth did not attempt to suspend Wickliffe by executive order, as he had done when Wickliffe was indicted by the grand jury in March, 1869. The Auditor might again have called upon the courts to prevent his ejection; and there would have recurred the angry protests against the Governor's usurpation of power.

Twenty-five rules of procedure for the conduct of the trial were adopted on February 9. On the day following, the impeachment court was organized with Chief Justice John T. Ludeling as presiding officer. The managers, accompanied by the whole body of members of the lower house, were received and assigned seats within the Senate chamber, after which the managers exhibited twenty-eight articles of impeachment against Wickliffe. This represents an unusually large number of formal articles for an impeachment case.³³ Indeed, the number rarely exceeds twenty-

²⁹ *Louisiana Senate Journal*, 1870, p. 130.

³⁰ The impeachment was not reported to the Senate until on February 3. *Ibid.*, 122.

³¹ A mere adoption of an impeachment resolution in the lower house does not constitute an impeachment, for it is not complete until specific articles have been preferred and exhibited to the Senate. The authority of the Senate to refuse to receive or permit the exhibition of the articles, while having no constitutional basis, is generally agreed to exist in that body. It represents another tenet of *Realpolitik*. In 1871, the Arkansas Senate refused to admit the managers of the House to report impeachment of Governor Clayton. The Governor refused to vacate his office until the impeachment was completed. For days, the impasse continued. Again, Governor Reed of Florida in 1868 refused to step aside following the House's adoption of an impeachment resolution against him. He contended, and was upheld by the State Supreme Court, that no quorum existed in the Senate when the impeachment was reported there, and that, since no quorum existed, the Senate was never in lawful session, and that the impeachment was thereby null and void and incomplete.

³² Article 88 of the Louisiana Constitution of 1864 read: "All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of their functions during the pending of such impeachment; the appointing power may make a provisional appointment to replace any suspended officer until the decision of the impeachment."

³³ For instance, in the McClure impeachment (Arkansas, 1871, the managers exhibited but a single article of impeachment before the Senate court.

five, through many times individual articles are broadened in scope through the inclusion of a number of separate specifications.³⁴

Reduced to impecunious brevity, the articles contained the following allegations:

1. That Wickliffe, on October 6, 1869, refused to obey a summons of a court of judicature to show cause why a mandamus should not issue against him to force him to issue warrants to one J. B. Howard, and by such refusal he failed and neglected to protect the interests of the state;
2. That he, on October 8, 1869, issued to J. B. Howard a warrant for the sum of \$11,006.70, when he knew that the appropriation for that purpose had already been exhausted;
3. That he, on the above-named date, issued warrants to Howard for the sum stated, when he, as Auditor, well knew that he had already issued warrants on the claim for the amount named prior thereto in favor of J. C. Kathman;
4. That he, on December 13, 1868, induced one J. B. Richardson to indorse state warrant No. 7071 to Wickliffe for his own use and benefit which was contrary to the laws of the state;
5. That he, in January or February, 1869, exacted and extorted from one O. H. Hempstead the sum of \$300 in consideration for issuing warrants, and that he refused to issue warrants upon the valid claim of Hemstead unless the latter gave him the said sum;
6. That he, during the months named in the preceding article, refused to audit the claim of the *Attakapas Register* for printing, held by Hempstead, unless the latter paid him the \$300, and that such transaction was kept a secret;
7. That he, during the months mentioned in the preceding article, refused to audit the claims of certain newspapers for printing, such claims being then in the possession of Hempstead, unless the latter agreed to give him fifteen per cent of the total claim;
8. That he, on February 15, 1869, refused to audit the claim of one Patrice Leonard of \$2,031 for printing unless the said Leonard would give him the sum of \$531, and thereby he did extort from the said Leonard the said amount;

³⁴ In the Botkin impeachment (Kansas, 1893), some of the articles contained as many as ten separate specifications charging specific instances of malfeasance or misfeasance in office.

9. That he, on March 16, 1869, refused to audit the claim of Patrice Leonard of \$1,565 for printing unless the said Leonard would give him the sum of \$782, which extortion was accomplished in that manner;
10. That he, in February, 1869, refused to audit the account of the state in favor of R. W. Francis for the sum of \$700 for printing, unless the said Francis would give him \$100 in currency, which extortion was accomplished in that manner;
11. That he, in May, 1869, refused to audit the account of the state in favor of R. W. Francis for the sum of \$375 for printing, unless Francis would give him \$50 in currency, which extortion was accomplished in that manner;
12. That he, in March or April, 1869, refused to audit the account of the state in favor of J. W. Menard for printing, unless Menard indorsed a certificate of indebtedness to Wickliffe for the sum of \$500, after which he audited the account and issued the warrants;
13. That he, in the months named in the preceding article, refused to audit the account of Menard until the latter gave him state warrants to the sum of \$300, after which he issued warrants to Menard;
14. That he, on February 14, 1869, refused to audit the account of J. N. Osborn for the amount of \$2,735 for printing until Osborn agreed to give him the sum of \$735;
15. That he, on June 20, 1869, extorted from one William H. Hire, treasurer of Charity Hospital, the sum of \$300 for cutting up warrants in smaller denominations;
16. That he, in 1869, refused to cut up a warrant for \$20,000 held by the Board of Health of New Orleans, unless such board would consent to give him five per cent of the total;
17. That he, on July 26, 1869, extorted from A. J. Bogel, treasurer of the state insane asylum, two per cent of a \$7,500 warrant;
18. That he, on September 15, 1869, refused to cut up a warrant for \$5,000 until Bogel gave him \$100 in cash;
19. That he, in August, 1869, refused to cut up a warrant for the Deaf and Dumb Asylum unless the officers of that institution would give him five per cent of the warrant;
20. That he, in October, 1869, extorted from James O'Neil, state tax assessor, the sum of \$125 before he would cut up a warrant in smaller denominations;

21. That he, in October, 1869, extorted from J. C. Grayer, state tax assessor, the sum of \$125 before he would cut up a warrant in smaller denominations;
22. That he refused to comply with a request of Governor Warmoth, dated November 23, 1869, for a statement of the condition of the state finances;
23. That he, in 1869, received and cut up a warrant which was issued in 1862, under the secession government of the state, and which was therefore void;
24. That he, in 1869, took an unexpended balance in the appropriation for clerk hire and issued it to certain of his clerks;
25. That he, in the summer of 1869, employed four clerks in addition to the number allowed by law, and employed two of them for a purpose—investigating gambling houses—entirely foreign to the duties of his office;
26. That he, in 1869, issued state warrants under the 1814-15 veterans pension act of 1868 to the amount of \$227,670.80 when he knew that there was no specific appropriation against which the warrants could be drawn;
27. That he, in 1869, issued warrants under the authority of the printing law which exceeded the amount stipulated by law to the amount of \$279,360, which excess was in violation of the law;
28. That he, during his term of office, has kept his office in such a state of confusion and disorder as to prove him incompetent to exercise the duties of the office.³⁵

The court convened on February 14 to receive the answer of the respondent. He appeared through counsel. No demurrer was offered. The answer specifically denied the allegations contained in the articles. As two seats in the Senate had been rendered vacant through death, an attempt was made to delay the trial until those vacancies had been filled in special elections; but the court, after secret consideration of the proposed order, refused to agree to it. The contention of its introducer was that the constitutional provision relating to the trial of an impeachment by the Senate could not be fulfilled if a single vacancy existed in the membership of that body. Of course, a Senate would certainly not lose its essence by the mere absence of one member. If such an interpretation were placed upon similar constitutional provisions, practically no impeachment trials of the past one

³⁵ *Wickliffe Impeachment Proceedings*, 2-7.

hundred and forty years would have been constitutionally conducted in the United States. No one doubts the validity of an impeachment court's adoption of a rule which requires an unusual number to be present during the trial, nor the authority of that body to require the attendance of members, by force if necessary. To adopt a rule which permitted less than a majority to constitute a quorum would, I believe, be unconstitutional in that it would be contrary to the specific provision of the state constitution on that point. I base this contention upon the conviction that, if a Senate may be adjudged not in lawful session and empowered to perform its legislative duties unless a majority of its members be present, a court of judicature would be bound to place the same construction upon the Senate for impeachment or judicial as for legislative functions.

The taking of testimony began on February 17 and was concluded on March 1. The persons mentioned in the articles as having been defrauded and extorted by the Auditor were called, and they testified to the facts of their relations with him. There existed no doubt as to the rascality of Wickliffe, as many of the bills that were presented to him represented pure boodle. On some of the claims, Wickliffe collected as high as fifty per cent before he would agree to issue warrants. If such practices were to become the substance of a modern impeachment trial, the terms "racketeering" and "shakedown" would be used to designate the nature of the illegal acts. Most of the defense witnesses were called to testify against the character of Captain Francis, a witness for the state, and a notorious carpetbagger who held four governmental offices in a parish in which he did not reside.

As is usually the case, the defense attorneys sought to define impeachment as a criminal proceeding. Proceeding authority therefor, they then argued that Wickliffe could not be impeached for acts that were not defined as crimes. Moreover, since none of the acts alleged constituted a crime under the state statutes, the impeachment court had but one course of action to pursue—to acquit the respondent of the illegal charges! Upon this point, a defense attorney said:

I think I have demonstrated my second proposition that your being a criminal court are to administer the laws according to the known law as it is; that you can not make a law of your own; that you must proceed to impeach the party for some offense known to the law; that the common

law does not exist in Louisiana; that nothing can be predicated as an offense against the law of Louisiana unless it is prescribed by statute, and that in the trial of this case, therefore, whatever is not announced as a crime, even admitting Mr. Wickliffe guilty of it, you can not on your oaths pronounce him guilty.³⁶

The managers replied to this argument by contending, strangely enough, that impeachment was neither civil nor criminal in its essence, but that it was a proceeding in parliamentary law. Therefore, the Senate court, said the chairman of the board of managers, sits as a grand inquest to inquire into the qualifications of the impeached and to render a verdict as to whether the office may be left in his possession without endangering the interests of the whole state.³⁷

Despite the preeminent qualities of his attorney, Thomas J. Semmes, as a barrister, the cause of Wickliffe was hopeless. The Senate court was, no doubt, unfriendly to him, for the Governor's whip was cracking with its usual promise of punishment. The respondent was not a figure to excite the sympathies of politicians, in whom it is even difficult to engender gratitude. Wickliffe had shown himself a master plunderer for private gain; he did not have the virtue of being a boodler for his party. As it was, he must have escaped with hundreds of thousands of dollars, derived from his extortions and corruption. He never presented himself before the impeachment court. In his absence, his case was conducted by Semmes and Gray, his attorneys. They tried vainly to prevent his conviction. Realizing finally that he had no chance to escape conviction, Wickliffe attempted to forestall the decision of the court by resigning, and he forwarded a written resignation to the impeachment court.³⁸

Evidently, Wickliffe hoped to terminate the impeachment proceedings by means of the resignation, and thereby escape disqualification for future officeholding. The court discussed,

³⁶ *Ibid.*, 147.

³⁷ This analogy between an impeachment court and a grand jury is not a very happy one, and is subject to serious criticism. An impeachment court is not concerned with the finding of indictments, for the House of Representatives has already acted in that capacity. The grand jury is not concerned with the matter of punishment; certainly, despite the constitutional limitations, an impeachment court may punish, in the sense that it may remove from office and disqualify for future officeholding. Moreover, the position of members of the court is not that of grand jurymen. They are really the judges of the proceeding and collectively they decide points of order if appeals are taken from the decisions of the chair.

³⁸ *Wickliffe Impeachment Proceedings*, 176. The resignation which Wickliffe presented read as follows: "I hereby respectfully notify this honorable court that I have resigned, and I do hereby resign my office of Auditor of Public Accounts for this State into the hands of the people of Louisiana, who have done me the honor to elect me to the same."

briefly, the effect of the resignation upon the jurisdiction of the impeachment court. Could an impeachment court accept the resignation of an impeached officer? The resignation was submitted near the conclusion of the closing argument. Only another hour remained before the final balloting. The resignations of administrative officers are, by law, presented to the Governor. The impeachment court instructed its secretary to communicate with the Governor to ascertain if the Governor had received Wickliffe's resignation. However, the argument was concluded and the impeachment sustained without an official return from the Governor's office relating to the status of Wickliffe. The attempt to escape the judgment of the impeachment court through resignation has, since that time, been declared invalid.³⁹ Usually, a resignation prior to the commencement of the trial has served to placate the prosecutors and has resulted in a formal abandonment of the impeachment; yet there remains no doubt as to the authority of the House to prosecute and of the Senate court to try and pronounce judgment against an absentee defendant.⁴⁰

Immediately upon the completion of the arguments, the court proceeded to ballot. By order of the court, Article IV was submitted first. The charge was unanimously sustained by the thirty-two members present. Unanimous verdicts are rare occurrences in impeachment trials, and more especially on verdicts of conviction. The other twenty-seven articles were never put to a vote. This also represents an unusual procedural precedent, for even though the votes on the remaining articles would have amounted only to perfunctory routine, the plain duty of the Senate court is to try the impeachment. Certainly, it failed to do so if a single article remained without disposal. Moreover, the Senate court has no constitutional authority to dispose of an article except by sustaining or refusing to sustain it.⁴¹ Another Louisiana impeachment court was, at a later time, to establish a more irregular precedent

³⁹ In the impeachment of Governor Ferguson (Texas, 1917), this same question was brought up through a last-minute and secret resignation of the Governor. At a later time, he sued in the courts to test the validity of the verdict of disqualification imposed upon him by the impeachment court. The Texas Supreme Court held that the impeachment court did not lose jurisdiction through the resignation of Ferguson, and that the judgment was constitutional and legal. The Senate court had power to conclude its proceedings. *Ferguson v. Maddox*, 114 Tex. 85 (1924).

⁴⁰ This actually happened in the case of Judge Crum, of Montana.

⁴¹ The right of the Senate court to sustain demurrers has been exercised on many occasions, but there is some doubt as to the validity of the same, or at least to the logic of such a practice. By so doing, the upper house invades the constitutional domain of the lower house, for the sole power of impeachment is vested in the lower house. To permit the sustenance of a demurrer is to permit the Senate to determine impeachable offences, and by means other than by trying them.

in this connection, by refusing to dispose of articles of impeachment, or any one of them, that had been duly and legally exhibited before it.

Following the verdict on Article IV, the court forthwith proceeded to pronounce judgment against Wickliffe, removing him from office and declaring him "disqualified from holding any office of honor, trust or profit in the State." Immediately thereafter the court adjourned *sine die*. With the indictment of the grand jury still pending against him, and being out of office, Wickliffe was immediately arrested. He fled the state one month later, after disposing of a large number of illegal warrants, and Louisiana historians have been unable to discover any trace of his subsequent field of activities.

3. GOVERNOR HENRY CLAY WARMOTH (1872)

The third Louisiana impeachment was that of Governor Warmoth in 1872. Warmoth was an unusual man. The story of this adventurer reads like that of one of Scott's best romantic characters. Born in Illinois in 1842, he removed to Missouri when nineteen years of age and was there converted to the law as a profession. After serving as county attorney for a brief period, he joined the Union army and was attached to the staff of General McClelland. At Vicksburg, in 1863, he engaged in an altercation with General Grant. The personal animosities born of this quarrel played an important part in Warmoth's impeachment nine years later. At the close of the war, he was Provost Judge for the Department of the Gulf. And thereafter he remained in Louisiana, acquired considerable property, and participated actively in politics as head of the state G. A. R., and nominal leader of the Republican Party. He was elected Governor of the State in 1868 when he was but twenty-six years of age.⁴³ Though unusually young, he displayed no semblance of timidity in his administrative policy. He was largely instrumental in the creation of the Metropolitan Police force, upon which he relied for the enforcement of the laws of the state.

⁴³ There are many good accounts of the life and work of Governor Warmoth. Among the best are: Henry Clay Warmoth, *War, Politics and Reconstruction*; Alcée Fortier, editor, *Louisiana*, . . . in *Cyclopedic Form*, II, 606; Alcée Fortier, *A History of Louisiana*, IV, 109-132; *American Annual Cyclopedic*, 1868-1872, *passim*; Claude G. Bowers, *The Tragic Era*, 362-370.

It was always easy to criticize the Republican governors of the Reconstruction era. For the most part, they were vaulted into their positions of high authority against the will of the disfranchised secessionists. There has been little compassion in the pages of Reconstruction history for those who held office in that orgy of bitterness and, too often, of corruption. The freedmen were gourmandizing for the first time upon the sweet fruits of politics, and many of their white cooperationists were unscrupulous and unprincipled. Warmoth was elected by the Negro and carpetbag vote. After assuming office, he sought to apply a brake to the wild rush of political inexperience and personal corruption. The Republican majorities in both branches of the Legislature wrote many bills with a large, bold hand. Racial equality was demanded, and bills providing for its legal consummation were hurriedly passed without serious discussion. These doughty archons of Louisiana were, by the Rousseauistic formula, applying that which they thought was pure reason to the task of discovering law. Some of their discoveries were helpful to the state, but most were of more assistance to their own financial enterprises. Boodling measures assigned paying patronage to undeserving ignoramuses who, upon hearing of the rich political pasturage in Louisiana, had swarmed there in multitudes. Warmoth realized the dangers of the situation. He sought to moderate the radicalism of his party. He wielded his veto power in vigorous fashion.⁴⁴ In forcing this policy he alienated a considerable group of Republicans who came together under the leadership of President Grant's brother-in-law, the Collector of Customs at New Orleans. Every veto message sent some of the administration's erstwhile supporters scurrying to the Casey-Packard-Kellogg standard. The end was inevitable, for the patronage of a governor, even a Reconstruction governor, is rarely sufficient as a bait to keep all the party politicians in line after the original appointments have been distributed. Always there are those who believe they may improve their positions by bolting. In all fairness to Warmoth, he appears to have lacked political finesse in not being able to conciliate the disgruntled Republican politicians. All of these factors contributed to the repudiation of Warmoth's leadership by a considerable body of Republicans.

⁴⁴ One has only to peruse casually the legislative journals of his administration to see that Warmoth exercised his veto authority in unprecedented fashion. For instance, see *Louisiana Senate Journal*, 1871, pp. 18, 19.

To remain influential in Louisiana politics, Warmoth was, by 1872, forced to negotiate agreements with other opponents of the Customhouse Ring. With this end in view, he approached certain Democratic leaders. For various reasons, they were willing to listen. They saw a chance to return to power, even though it might not mean complete control. They feared most the triumph of the negrophile Radical Republican ticket, which was headed by Senator William Pitt Kellogg as the candidate for Governor. The Fusion Party was born of the Warmoth-Democrat union. John McEnery was nominated for the governorship. Nationally, the Fusionists supported the candidacy of Horace Greeley; the Radicals favored Grant's reelection.⁴⁵

The state canvassing law provided that the Governor should open and count the votes in the presence of the Returning Board. This Board was composed of the Governor, Lieutenant Governor, Secretary of State, and a member each from the Senate and the House of Representatives. Anderson, the member from the lower house, and Lieutenant Governor Pinchback were both candidates in the election and were, therefore, disqualified from acting as members of the Board. Lynch was the Senate member of the old Board. In 1871, Warmoth had removed Bovée, Secretary of State, from his office. In his place, he had appointed F. J. Herron. Because the latter aligned himself with the Customhouse Ring, Warmoth now removed him and appointed J. Wharton to the office. The Returning Board met on November 13, and Warmoth and Wharton, with Lynch looking on, selected F. W. Hatch and D. Daponte to replace Pinchback and Anderson. At this point, the courts interfered.

Lynch and Herron met and formed a rival Returning Board. They appointed General James Longstreet and Jacob Hawkins to the vacancies. This is known as the Lynch Board. In such unsettled political conditions, the composition of the Returning Board was of greater importance than a majority of votes in the election, for majorities of actual existence could easily be dissolved and erased by the Board.

On November 16, on petition of Kellogg, Judge E. H. Durell, of the United States District Court in New Orleans, issued an order restraining the Warmoth Board from canvassing the election. During the regular session of 1872, the Legislature had

⁴⁵ Warmoth, *War, Politics and Reconstruction*, 197-204; Bowers, *The Tragic Era*, 387; Fortier, *History of Louisiana*, IV, 120-123; *American Annual Encyclopedia*, 1872, pp. 477-481.

passed a bill which abolished the old Board and provided for the selection of a new Board by the Senate.⁴⁶ Governor Warmoth had made no disposition of this bill; and now that he was balked in his attempt to canvass the election, he proceeded to sign this bill and proclaim it a law of the land. And, since the Legislature was not in session, he appointed a temporary Board under the law to effect the canvass. This third Returning Board is known as the DeFeriet Board. It proceeded to certify to the election of the Fusion ticket. The Governor proclaimed these persons elected to the offices. On the next day, December 5, Judge Durell ruled that this proclamation was a violation of his earlier order; and he ordered the United States Marshal to take possession of Mechanics' Hall, which was being used as a capitol building, and to prevent the assembling of the Legislature under the call of the Governor. This is known as the famous "midnight order," so labelled because it was issued late at night.⁴⁷ Two companies of Federal troops assisted Marshal S. B. Packard in carrying out the order. The Grant administration was definitely favorable to the Customhouse Ring, and it had called the courts to its aid.

Judge Durell then acknowledged the Lynch Board as the legal canvassing body, and permitted it to announce its canvass as the authoritative return. As one unfriendly critic remarked, the Lynch Board "set aside the constitutional and republican government of the State, and appointed a Legislature for Louisiana."⁴⁸ This *de facto* Legislature, which was declared elected by the Lynch Board, convened on December 9, under the protection of the Federal troops. On the first day, the lower house passed a resolution impeaching Governor Warmoth of high crimes and misdemeanors. He was immediately suspended from office and Pinchback, the Negro Lieutenant Governor, became Acting Governor pending a decision on the impeachment.

Warmoth refused to recognize the legality of the impeachment and of the suspension, and he proceeded to set up a government in the City Hall. The United States troops and the Metropolitan Police supported Pinchback; the State Militia remained

⁴⁶ See *American Annual Cyclopaedia*, 1872, p. 481.

⁴⁷ Of Judge Durell's action, a committee of the United States Congress subsequently declared: "Viewed in any light in which your committee can consider them, the orders and injunctions made and granted by Judge Durell in this cause are most reprehensible, erroneous, in point of view, and wholly void for want of jurisdiction; and your committee must express their sorrow and humiliation that a judge of a United States court should have so proceeded in such flagrant disregard of this duty, and have so far overstepped the limits of Federal jurisdiction."

⁴⁸ Statement of Randall Hunt, quoted in Fortier, *History of Louisiana*, IV, 127.

loyal to Warmoth, but it was soon disarmed by the Metropolitans. Being in control of the regular headquarters of the state government, the Pinchback government was in a favored position. Articles of impeachment were exhibited against Warmoth. In brief, they charged:

1. That Warmoth had, in 1871, unconstitutionally removed George Bovée from his office as Secretary of State;
2. That he, in 1870, appointed one John Evans as tax collector for the Parish of Tangipahoa, after the Senate had refused to confirm his nomination;
3. That he commissioned certain specified officers when no official returns had been made by the legal returning officers;
4. That he offered Lieutenant Governor Pinchback \$50,000 if the latter would organize the Senate in the manner dictated by him;
5. That he offered to R. H. Catlin, supervisor of elections in St. Charles Parish, a bribe if Catlin would make a fraudulent return for the said parish;
6. That he, contrary to the constitution and laws of the state, continued to exercise the authority of Governor after he was legally impeached and suspended.⁴⁹

Since he denied the validity of the impeachment, on the ground that the Pinchback Legislature had no legal authority, Warmoth refused to make answer to the impeachment articles that were exhibited before the upper house.⁵⁰ Instead, he directed his attention to the business of governing the state from the City Hall. The Legislature declared elected by the DeFeret Board also convened on the 9th, but it adjourned on the 13th, ostensibly to meet again in the following January.

The Pinchback Legislature was careful not to bring the validity of the impeachment into the state courts. The rules and precedents of Louisiana impeachments were strictly, though perfunctorily, followed in the whole case. The impeachment was adopted in the House and reported to the Senate; and within six

⁴⁹ See *American Annual Cyclopaedia*, 1872, pp. 484-485.

⁵⁰ Warmoth contended also that an officer could not be legally impeached by the House if no prior investigation of his acts had been conducted and if the suspect officer were not given an opportunity to cross-examine the witnesses against him. Evidently, the Governor did not remember the curt ejection of Wickliffe's attorney from the committee room in 1870—but, of course, the Governor was, in that case, using his political influence to eject a notorious rascal from the state service!

hours after the convening of the Legislature, the Senate organized itself into a court of impeachment for formal exhibition of the articles against Warmoth. Since only one month of the Governor's constitutional term of office remained, and since Warmoth refused to answer the impeachment accusations, the Pinchback government followed the least hazardous course—it permitted the suspension to remain in force until the end of Warmoth's term. There was really no necessity for the impeachment court to render a verdict in the case, for the case might then have been thrown into the courts and the whole daring scheme overthrown.

The whole impeachment squabble is of little value to anyone seeking to gather data on impeachment procedure and precedents. Rather, it should be viewed as a mere episode in political chaos and revolution. Any impeachment simultaneous with the existence of three Returning Boards, two Legislatures and two sets of state administrative officers would be of little value as a source of procedural information. And especially so when the legality of the impeaching Legislature had no other support than that it was approved by an old, enfeebled partisan who sat upon a Federal judicial bench. However, the impeachment remained a *fait accompli*. The only precedents that need be mentioned are those relating to the refusal of Warmoth to answer the charges and to the right of an impeachment court to adjourn without making a final disposition of an impeachment.

4. AUDITOR CHARLES CLINTON (1875)

The fourth Louisiana impeachment was that of State Auditor Charles Clinton in 1875. During the regular session of the Legislature early that year, a committee was appointed in the House to investigate the books, records and vouchers of the State Auditor's office. The state's finances were in a deplorable condition. The regular session adjourned, but on March 20, Governor Kellogg issued the call for a special session. The "Wheeler Agreement" was enacted on April 14. This submitted the contests for seats in the lower house to the decision of the congressional committee which had investigated Louisiana politics during the regular session of the Legislature. On April 20, the committee appointed to investigate the Auditor's office reported serious irregularities in the conduct of the office, and recommended the impeachment of Auditor Charles Clinton. Upon the day following, he was formally impeached of high crimes and misdemeanors

by a vote of seventy-three to twenty-one. A joint resolution was rushed through the two houses suspending him from his office. The same procedure had been followed in the impeachment and trial of Auditor George W. Wickliffe five years earlier.

The charges against Clinton involved primarily the issuance of "illegal" warrants. The committee interpreted the laws of the state to mean that the Auditor could not issue a warrant if there was no money in the treasury with which to meet the obligation. He was charged with having issued a large warrant for the maintenance of the state militia in 1874 contrary to the laws of the state, even though he had issued the warrant in question upon the order of the Superior District Court.⁵¹ Most of the accusations were based upon improper bookkeeping methods, but that did not deter the Democrats and disgruntled Republicans from pushing the impeachment.

The impeachment was not brought to trial. Instead, the Legislature, by resolution, ordered the Governor to bring charges in the courts against Clinton.⁵² Civil suit was accordingly brought against him, but final decision in the case was postponed until November. In June, he was indicted by the grand jury and immediately brought to trial, but the case ended in a disagreement of the jury. Finally, on July 21, Clinton tendered his resignation to the Governor, which was to take effect on December 15. In accepting his resignation, Governor Kellogg paid the following tribute to the honesty and integrity of the suspended official:

I desire to state that though in the discharge of my official duty I ordered investigation to be made into your accounts, and directed the law officers of the State to prosecute the charges preferred against you, I have never for one moment believed you to have been personally guilty of dishonesty or corruption in the administration of your office. Before the experts made their report I had examined into many of the charges urged against you, and was satisfied that they were for the most part groundless. The official report of the experts, whose capacity and disinterestedness no one can doubt, and especially the views and information with regard to yourself conveyed to me personally by these gentlemen, together with the testimony adduced in the civil and criminal cases recently tried, have only confirmed my previous opinion. You have had very difficult duties to dis-

⁵¹ *American Annual Cyclopaedia*, 1875, p. 459; *Cincinnati Commercial*, April 22, 1875; see also the *Louisiana House Journal*, Special Session of 1875, for procedural developments.

⁵² For a good short survey, see *American Annual Cyclopaedia*, 1875, p. 459.

charge. Under the extraordinary circumstances surrounding your office during the past few years, it would have been almost impossible for any one to fill your position without incurring hostility. Possibly a greater amount of political experience and tact might have enabled you to avoid some of the antagonism and difficulties you encountered, but I have not failed to recognize the fact that your official acts have been mainly actuated by a singleness of purpose to serve the interests of the State.⁵³

This testimonial on the part of the Governor throws some light upon the nature of the impeachment. During the special session, Kellogg had advised the Legislature to enact laws reforming procedure for the funding of debts. There is no doubt that the Governor used his influence to protect Clinton. These activities on the part of Kellogg became specific charges against him in an impeachment of the year following. The Clinton impeachment is interesting only as an incomplete impeachment.

5. GOVERNOR WILLIAM PITT KELLOGG (1876)

The fifth Louisiana impeachment was that of Governor Kellogg in 1876. The ease with which Governor Warmoth had been suspended from office in the closing month of his administration merely emphasized the usefulness of the impeachment tool to effect partisan advantage. William Pitt Kellogg, who had quitted the halls of the United States Senate to lead the Republican ticket in the election campaign of 1872, was inaugurated Governor in early January, 1873. Supported though he was by the President—and especially through the President's brother-in-law, Casey, of the New Orleans Customhouse Ring—Kellogg and his administration leaders encountered an unexpected tenacity in the Warmoth-Democratic opposition. This latter group was known as the Fusion or Reform Party. McEnery persisted in his contention that he had been elected Governor in 1872, and that an honest canvass of the votes would have returned him to office. Riots and attempted *coups d'état* featured the first two years of the Kellogg administration, but the Metropolitan Police and the United States army of occupation successfully prevented the overthrow of the Republican regime.⁵⁴

⁵³ *Ibid.*

⁵⁴ For accounts of the serious clashes between the White League and the Kellogg military forces, see Fortier, *History of Louisiana*, IV. 133-178, *passim*.

The story of Louisiana politics from 1872 to 1876 has been too well told by others to need recapitulation here. There existed, however, certain factors that need to be mentioned in order to clear the way to a good understanding of the impeachment squabble of 1876. Despite the assiduity of the Republican Returning Board of 1874, Democratic strength in the lower house of the Legislature was perceptibly increased. Fifty-four Republicans and fifty-two Democrats were certified as members of that body. The Democrats protested against the canvass, maintaining that many more Democrats had been elected in the balloting. McEnery declared that this canvass was a "more crowning infamy than the action of the Lynch board," but with the election machinery in control of the administration, the Democrats had no feasible alternative to acceptance of the return. Little was to be gained by pursuing a course of action that would ultimately result in military intervention by the United States government, for such a policy would have represented a foolish and unpardonable strengthening of popular support of the reconstructionists.

Lack of a majority did not deter the Democrats from attempting to organize the lower house when it met in early 1875. This highhanded action was frustrated by the military. However, the opposition continued to harass the Kellogg government. The state of affairs became so unendurable that an agreement was reached in April, 1875, which is known as the "Wheeler Agreement."⁵⁵ By this pact, the contestants for seats in the House of Representatives agreed to submit their claims to the arbitration of the congressional committee. The Democrats might thereby acquire a majority in the House, but they promised not to attempt the impeachment of Governor Kellogg for any official act committed prior to April 14, 1875. The text of the Agreement was as follows:

Whereas, Doubts have existed, and still exist, as to the legal results of the election in this State in the month of November, 1872; and

Whereas, It is alleged, and by a large portion of this State believed, that the result of the election for members of the House of Representatives and for Treasurer, in the month of November last, was illegally determined and promulgated by the Returning Board; and

⁵⁵ Wheeler was a member of the second Congressional committee sent to investigate conditions in Louisiana. This committee reached New Orleans in January, 1875. The Agreement was negotiated in February, but was not formally adopted by the Legislature until in April, when the General Assembly was convened in special session.

Whereas, It is deemed necessary to the welfare of the State that an adjustment of the foregoing difficulties should be effected: therefore be it hereby

Resolved by the General Assembly of the State of Louisiana, That said Assembly, without approving the same, will not disturb the present State government, claiming to have been elected in 1872, known as the Kellogg government, or seek to impeach the Governor for any past official acts, and that henceforth it will accord to said Governor all necessary and legitimate support in maintaining the laws and in advancing the peace and prosperity of the people of this State; and that the House of Representatives, as to its members as constituted under the award of George F. Hoar, William A. Wheeler, William P. Frye, and Samuel S. Marshall, shall remain without change, except by resignation or death of members, until a new general election; and that the Senate as herein recognized shall also remain unchanged, except so far as that body may itself make changes on contests.⁵⁶

This is a rare document in the precedents of American impeachments. By what authority could the members of the Legislature contract away the right of the lower house to exercise its investigatorial powers and to vote and prosecute an impeachment against an officer rendered eligible to that form of removal by the state constitution? At best, the agreement can be considered in no other category than that of practical politics, for it has no basis in any reasonable interpretation of constitutional law. What would the courts have ruled if the validity of an impeachment had been brought before them respecting an infringement of this pact? Unless they decided the case from political angles, the courts would have had to decide that the agreement was of no force in that it could not deny the House of Representatives authority granted by the constitution. It reminds one of the recent attempt to Governor Bilbo to procure written promises of members of the Mississippi Legislature, averring that they would not attempt to impeach him if he issued a call for a special session. The courts have already held that impeachments may be voted in special session, despite the attempt of the governors to limit the activities of the Legislature to certain prescribed and enumer-

⁵⁶ Fortier, *History of Louisiana*, IV, 178-179.

ated legislative subjects.⁵⁷ Despite the indubitable unconstitutionality of the "Wheeler Agreement," it was instrumental in quieting Louisiana politics for ten months.

When the Legislature met in January, 1876, the Democratic members were determined to effect a repeal of the law relating to the Returning Board. The Senate was predominantly Republican. Control of the Returning Board personnel was more important than the support of a majority of the voters. Realizing this, the Republican Senate looked upon any alteration in this law as a threat to the future welfare of the party. The lower house introduced the bill; the Senate smothered it, and presented a substitute that offered little promise of relief for the Democrats. The House protested.⁵⁸ For bargaining purposes, the House, on February 15, threatened to impeach the Governor for his presumed connection with the payment of illegal state warrants.⁵⁹ On February 25, the House appointed a committee of seven members to investigate "what charges, if any, there are against William P. Kellogg, demanding his impeachment."⁶⁰ The investigation was certainly not particularly exhaustive, for on the day following the committee reported in favor of impeachment.⁶¹ The majority report alluded to testimony having been taken, but the minority report declared that "not one item of testimony of any kind whatever has been adduced." Weeks are many times taken up in hearing testimony in House investigations of administrative or judicial officers; and impeachments which are voted without painstaking investigation are usually mere partisan indictments. Two days later, on February 28, the majority report was adopted by a vote of sixty-one to forty-five. The Senate was notified of the impeachment on the same day.⁶²

⁵⁷ Both Governor Walton and Governor Ferguson sought to forestall certain impeachment, and maybe revolution to a degree, by calling the Legislature into special session⁴ but in each case the impeachment was presented and sustained, and the courts upheld the validity of the removals.

⁵⁸ A long resolution was adopted on February 4, protesting against the action of the Senate.

⁵⁹ *Louisiana House Journal*, 1876, p. 200. This threat came in the majority report of the committee which was appointed to investigate the offices and books of the State Auditor and the State Treasurer. *Inter alia*, the report read: "Your committee have accumulated sufficient evidence to establish the fact that Antoine Dubuclet, who has thus disposed of the State funds without warrant of law, is less guilty than William Pitt Kellogg, the originator of the whole scheme. . . . And your committee would suggest that articles of impeachment be immediately drawn, as the law requires, against William Pitt Kellogg, Governor of Louisiana, and Antoine Dubuclet, State Treasurer; that by joint resolution, Henry C. Dibble, Assistant Attorney General of the State, be addressed out of office; that Hon. A. P. Field, the Attorney General, be instructed to institute criminal proceedings against Albert Shaw and J. H. Oglesby. . . ."

⁶⁰ *Louisiana House Journal*, 1876, p. 291. Adopted by a vote of fifty-five to twenty-five.

⁶¹ *Ibid.*, 307-309.

⁶² *Louisiana Senate Journal*, 1876, p. 252.

There is no reason to believe that the House Democrats believed that an impeachment of Kellogg would be sustained by the Senate court. They assuredly intended to execute the same crafty maneuver which had resulted in the suspension of Governor Warmoth in December, 1872. With this end in view, the House, immediately after the return of the committee from the Senate, voted to adjourn over the last day of February to March 1. The Legislature was already scheduled to adjourn *sine die* on March 2. Thus, March 1 and 2 could be given over to the preparation and exhibition of articles of impeachment before the Senate, after which the Governor would be suspended from office, the Legislature would adjourn, and, being out of office, Kellogg could not call the Legislature into special session. The whole scheme was arranged upon the scale of the successful *coup* of 1872, and was marked with consummate cleverness on the part of the House leaders. However, its promise of success was soon rendered nugatory by equally clever technique on the part of the Senate.

After the House committee notified the Senate of the impeachment, the upper house immediately organized itself into a court of impeachment, with Chief Justice John T. Ludeling as presiding officer. This organization of the impeachment court on the same day and within an hour or so after the impeachment was voted in the House probably has not been equalled in the entire history of American impeachment. It featured a celerity generated in overpowering political necessity. If the Republicans had not moved with sufficient haste, Governor Kellogg would have fallen victim to the machinations of the Democrats. When the court was organized, appearance of the Governor by counsel was noted. Rules for the conduct of the trial had not yet been adopted. Of course, the Governor was not suspended from office, for by the law of 1875 suspension could not be effected until specific articles were exhibited before the Senate. The organization of the court and the appearance of the Governor would seem, therefore, to have been premature if judged by the common precedents, and even by the Louisiana law, of impeachment.

The impeachment court revealed an unusual impatience to inaugurate the trial proceedings, for it fixed the time for the House managers to exhibit the articles of impeachment before the bar of the impeachment court at seven o'clock p.m. of that same day. Thus, within a few hours, an impeachment had been voted and reported to the upper house, an impeachment court organized,

the respondent who had nothing to make response to had entered his appearance, and the trial was scheduled to begin—all this took place in less than five hours! This despotic demand on the part of the court to initiate immediate proceedings is without precedent in impeachment history, for days, or even weeks, are usually allotted to the managers to draft and prepare the articles upon which the impeachment is to be tried. The secretary who was dispatched to carry this demand to the House reported that he had found the "doors locked, and the House adjourned." An attempt was made by a Democratic court member to delay further action until after the House was duly informed of the organization of the court, but the Republican majority defeated the proposed order by a vote of twenty to eight.⁶³

After a short recess, the court entertained a petition of the Governor "to dismiss the impeachment charges." As a matter of fact, there were, as yet, no charges against Kellogg, but such technical difficulty was of no importance to a whitewashing jamboree. One of the members proposed an order to terminate the proceedings. The order read:

Whereas, The House of Representatives has notified the Senate that it has impeached William P. Kellogg, Governor of the State of Louisiana, of high crimes and misdemeanors; and

Whereas, Said House has acted in said impeachment contrary to law in this, that it has refused to permit said William P. Kellogg, Governor of the State of Louisiana, to appear before the committee appointed to investigate the charges made against him, either in person or in counsel, and has refused to furnish him with a list of the witnesses relied upon to support said charges; and

Whereas, It is a notorious fact that said impeachment is prompted by partisan and revolutionary purpose; and

Whereas, It was agreed by said House, by act No. 1 of the extra session of 1875, in pursuance of the terms of the agreement known as the Wheeler adjustment, that said William P. Kellogg, Governor of the State of Louisiana, should not be impeached for any acts committed prior to the adoption of said act, and that the House of Representatives would henceforth accord to him full support in the maintenance of the laws and the promotion of the welfare of the people and the State; and

⁶³ *Proceedings of the Senate when Sitting as a High Court of Impeachment*, 291-292. This document, one of the shortest in existence of its character, is bound as an appendix of the *Louisiana Senate Journal*, 1876. Hereafter, it will be cited as *Kellog Impeachment Proceedings*.

Whereas, This resolution of impeachment is in violation of said agreement; and

Whereas, The acts of the said William P. Kellogg as Governor of the State of Louisiana, are fully known to each and every member of this Senate, and known to us not to be criminal or unlawful;

Whereas, The Senate had adopted a notice for the House to appear and make good its charges; and

Whereas, Said House has hurriedly adjourned until next Wednesday, at 10 A. M., knowing that but little more than one day of the session will then remain; and

Whereas, This adjournment is believed to have been taken for the purpose of defeating a full investigation of said charges; and

Whereas, We believe the said William P. Kellogg, Governor of the State of Louisiana, to be innocent of any criminal act or of any high crime or misdemeanor; and

Whereas, The resolution adopted by the House of Representatives recites no specific grounds of impeachment against the said William P. Kellogg; and

Whereas, The House of Representatives has failed to appear and present any specific charges or accusations against the said William P. Kellogg, Governor, notwithstanding said House has had full and sufficient time for said purpose;

It is ordered that the Senate, sitting as a Court of Impeachment, That the impeachment presented by the House of Representatives be dismissed by reason of the failure of said House to prosecute the same, and that this order have the same force and effect as a judgment of acquittal.⁶⁴

There were many interesting declarations in this order, chief of which was the observation that the members of the Senate court knew Kellogg personally and believed him not to be guilty of any high crime or misdemeanor. To entertain such a belief at the outset of an impeachment trial merely renders a member of the court a partisan politician and not an unprejudiced judge of the evidence. One of the Democratic members of the court "happened" to note the unofficial presence of the board of managers within the chamber, and the Chief Justice remarked that they had a right to be heard. Yet, it must be admitted, the managers had not been legally and formally received in the

⁶⁴ *Ibid.*, 292.

impeachment court, had not been assigned seats, nor had they made a statement of any character regarding the impeachment. Louis A. Wiltz, of the managers, moved that the court take a recess, which was objected to by counsel for Kellogg, upon the ground that the alleged managers had not presented proper credentials to prove themselves members of the official board of managers; and the Republican court, after a minute's mature deliberation, solemnly sustained the objection, by a vote of twenty-four to nine. Senator M. H. Twitchell thereupon resubmitted his order, declaring Kellogg acquitted of the charges.⁶⁵ The order was adopted, twenty-five to nine. It represents a sport in the flock of impeachment precedents. The court further refused to receive protests against the adoption of the acquitting order, and a *sine die* adjournment followed immediately. The official proceedings, together with a copy of the rules adopted for the conduct of the trial, amount to less than six pages. One would look far in the annals of American impeachments to discover so brief a transcript.

Following its one-day vacation, the House met on March 1; the committee appointed to prepare articles of impeachment reported progress; and further leave was granted this committee to complete the task.⁶⁶ A message was received shortly, by which the Senate notified the House of the acquittal verdict of the impeachment court. Mr. Wiltz raised the point that the Senate court had not officially notified the House of its organization or of its readiness to proceed with the trial. The Speaker took the point under advisement. Undaunted by the message from the Senate, the committee reported articles of impeachment to the House in an hour or so after the House had assembled on that morning. Fifteen articles were presented, of which fourteen were solemnly adopted by the House.⁶⁷ In short, the articles alleged:

1. That Kellogg, in July, 1875, appointed one D. F. Settoon as supervisor of registration in the Parish of Washington, when Settoon was at that time a resident of the Parish of Tangipahoa;

⁶⁵ *Ibid.*, 294. This was the same proposed order that Senator Twitchell had earlier presented and which is printed in full, *supra*.

⁶⁶ *Louisiana House Journal*, 1876, p. 314.

⁶⁷ *Ibid.*, 318-320. The House adopted the articles individually, which is not the usual manner in which such charges are voted in the lower house.

2. That he, in February, 1876, removed from office without cause, one J. B. Cason, and appointed in his place one Charles H. Jackson, who made a fraudulent census return in 1875;
3. That he, in April, 1875, refused to appoint a temporary State Auditor to take the place of Charles Clinton who was suspended through impeachment;
4. That he, since the first of May, 1875, had neglected to appoint a competent accountant to audit the books of the State Treasurer, as required by law;
5. That he, in May, 1875, refused to appoint an expert accountant to go over the books of the Treasurer, despite the fact that the accountant who had inspected the books of the State Auditor made application for the appointment;
6. That he, in May, 1875, paid to L. H. Gardner, who had just finished an inspection of the State Auditor's accounts, an excessive fee, amounting to three thousand dollars;
7. That he, in February, 1876, caused to be brought into the State House a large number of Metropolitan Policemen, in violation of the privilege of the House of Representatives then sitting;
8. That he, in April, 1875, permitted G. H. Braughn to remain Judge of the Superior Criminal Court of the Parish of Orleans despite the fact that the Senate had failed to confirm his nomination;
9. That he, in June, 1875, removed without cause one E. V. Leclere, Police Commissioner of New Orleans, and appointed in his place V. A. Ryan;
10. That, in August, 1875, he illegally removed George H. Braughn, mentioned in Article VIII, and appointed in his place one H. R. Steele, a resident of the Parish of Tensas;
11. That he, in February, 1876, before a legislative committee, testified to a falsehood regarding the diversion of State interest money to the compensation of members of the Metropolitan Police;
12. That he, in May, 1875, and subsequently, illegally interfered with George H. Braughn, mentioned in Article X, thereby attempting to destroy the independence of the judiciary;

13. That he, in August, 1875, pending the trial of State Auditor Clinton for embezzlement in the Superior Criminal Court of Orleans Parish, removed Braughn, judge, and appointed Steele, mentioned in Article X, after he (Kellogg) had publicly declared that he believed Clinton innocent and after Steele, who was prior to his appointment Assistant Attorney General, had refused to prosecute Clinton;
14. That he, in February, 1876, while the House was investigating charges against him, called an extra session of the Senate without calling the House into extra session, thereby violating the constitution of the State.⁶⁸

On March 2, the final day of the session, the impeachment committee of the House submitted a report, in which it set forth its objections to the hasty action of the impeachment court. *Inter alia*, the report charged "that the Senate, by its partisan and arbitrary conduct, has deprived the people of the State of an opportunity of bringing to trial the chief magistrate of the State, charged with high crimes and misdemeanors, and with criminal neglect and violation of his official duty."⁶⁹ Before the House adjourned *sine die*, the Speaker announced his decision upon the point of order raised on the preceding day as to whether the House should receive the Senate message relating to the acquittal of Kellogg. Though this thorough partisan declared that the Senate was obligated to notify the House of its readiness to proceed to the trial of the impeachment, he doubted if the House could "deny the Senate the right of presenting to the House the evidence of its gross dereliction in the performance of a solemn and imperative duty." Moreover, despite his own canard, he discovered that certain portions of the Senate message were so flagrantly disrespectful to the House "that it cannot construe them otherwise than as a direct insult to its dignity." To protect the integrity of the House, he ordered the Clerk of delete the objectionable passages before spreading the message upon the Journal.

Meanwhile, the Senate received from Governor Kellogg a labored political diatribe, replying *seriatim* to the articles of

⁶⁸ *Ibid.*, 316-318.

⁶⁹ *Ibid.*, 324-325.

impeachment. Just before the Senate adjourned *sine die*, the Republican leader presented a long address, which was adopted, declaring the approval of the Senate of the action of the impeachment court in determining so expeditiously the persecution of the honorable Governor. Dr. Jekyll was generous in his approbation of the courage and decisive conduct of Mr. Hyde. As an appropriate conclusion to the whole proceeding, this final stamp of approval only accentuated and rendered more perceptible the partisan childishness and political burlesque of the whole proceeding.

Viewing the impeachment crisis from the standpoint of established precedents, it is almost without parallel. It represents a splendid example of the bitter quality of Reconstruction politics. Informal throughout, and motivated by partisan politics, it never acquired the dignity of a great trial of state. Only three days elapsed from the time that the House adopted its resolution to investigate the official acts of Kellogg until the impeachment was conclusively quashed in the Senate court. It is recorded as the best example of expeditiousness in the application and determination of the impeachment remedy. It could scarcely have been concluded more speedily if the Governor had entered a plea of guilty, if that were possible, and had obeyed a judgment of the court sustaining the articles of impeachment. However, in this trial, the articles of impeachment were never exhibited against Kellogg. Technically, there were never any charges against him. The action of the Senate court was, therefore, premature beyond dispute. It is the only case on record in which the articles have been drafted and adopted in the House subsequent to a dissipation of the impeachment in the Senate court.

THE LOUISIANA PRESS AND THE LOTTERY*

By RICHARD H. WIGGINS

CHAPTER I

HISTORICAL BACKGROUND

The first lottery involving this country was the one granted in 1612 in the third charter of the Virginia Company of London. The House of Commons protested so vigorously that in 1621, the first lottery enterprise for the benefit of what became the United States was terminated by order of the council.¹ Hundreds of other lotteries were set up for churches, education and other public enterprises, for municipalities and even states.² Twenty-nine important colleges and universities in the United States were started and in part supported for years by lotteries.³ The public school systems of nineteen states were founded, in whole or in part, by lotteries; more than fifty rivers were said to have been improved and a number of harbors aided by lottery money.⁴

Lotteries were run under the Continental Congress to provide funds for the Revolutionary War. Lottery enterprises were given the approval of Washington, Jefferson and other leading men of that time. Most of the early lotteries were for public projects. Gradually abuses crept in and in 1842, Rhode Island became the first state to insert in her constitution a provision forbidding the legislature to authorize lotteries.⁵ Others fell into line until in 1868, South Carolina became the twelfth state to prohibit legislative grants while nine of those commonwealths outlawed the sale of lottery tickets.⁶

The first lottery set up in the Territory of Orleans was the one granted by the Territorial Council in 1805 "To institute an

* Master's thesis in Journalism, Louisiana State University, 1936.

¹ Spofford, A. R., "Lotteries in American History," *American Historical Association, Annual Report* (1892), 173-174.

² *Ibid.*, 174 ff.

³ *New Orleans Daily City Item*, October 21, 1890, 2.

⁴ *Idem.*

⁵ Spofford, *loc. cit.*, 193.

⁶ *Idem.*

university in the Territory of Orleans."⁷ The Board of Regents was authorized to raise \$50,000 a year by two lotteries.⁸ The lotteries actually raised \$125,000 from 1811-26 as the licenses were revoked and renewed frequently.⁹

Before Louisiana reached statehood, the "Christ Church Lottery" was granted in 1810 for constructing the original Christ Church which was the first Protestant church in New Orleans.¹⁰ Other church lotteries were the "Presbyterian Lottery" to build the First Presbyterian Church in New Orleans, 1822, the "Evangelical Lottery" in 1828 for funds to erect the Evangelical Church in New Orleans, the Catholic Church of St. Francis in Natchitoches in 1826, the Catholic Church of St. Martin of St. Martinville in 1827, and the Catholic Church of St. Joseph in Baton Rouge in 1823.

Educational lotteries were the Covington Academy in St. Tammany Parish in 1828, the "St. Francisville Library Lottery" in 1816, the Baton Rouge Academy Lottery in 1830, and "St. Charles Lyceum Lottery" and the "College of Louisiana Lottery" in 1827.¹¹ Two later education enterprises were for literary purposes in the Parish of St. John the Baptist and for the establishing of a city library in New Orleans.¹²

River improvement lotteries were the Bayou "Lafourche Lottery" and the "Bayou Boeuf Lottery" in 1814, the "Atchafalaya Lottery" in 1819, and the river improvement, levees, etc., lottery for the people of Iberville in 1827.¹³

The state's only road lottery was known as the "Springfield Lottery" in Livingston Parish, where it was established in 1813.¹⁴

A lottery chartered by the Legislature in 1819 and renewed in 1822 was the means by which the Medical Society, of New Orleans was established. The "Grand Masonic Lottery" was obtained in 1827 for building a Masonic hall in New Orleans.¹⁵

However, the era of Louisiana lotteries was abruptly brought to a halt in 1833 by a legislative act that was renewed in 1841.

⁷ New Orleans *Times-Democrat*, February 10, 1891, 7.

⁸ Fleming, Walter L., *Louisiana State University, 1860-1896* (Baton Rouge, 1936), 12.

⁹ *Ibid.*, 13.

¹⁰ New Orleans *Daily States*, quoted in *Louisiana Review*, November 26, 1890, 2; *Times-Democrat*, February 10, 1891, 7.

¹¹ *States*, quoted in *Louisiana Review*, November 26, 1890, 2.

¹² *Idem.*

¹³ *Idem.*

¹⁴ *Idem.*

¹⁵ *Idem*; *Times-Democrat*, February 10, 1891, 7.

The Constitution of 1845, the state's second,¹⁶ prohibited lotteries and tickets and the third Constitution of 1852 did likewise.¹⁷ In 1864, the state's fourth Constitutional convention, "yielding to a very general desire to open a door for revenue to the impoverished treasuries of the State and the city of New Orleans,"¹⁸ wrote into the organic law of the commonwealth:

The Legislature shall have the power to license the selling of lottery tickets and the keeping of gambling houses; but in all cases not less than \$10,000 per annum shall be levied as a license or tax on each vendor of lottery tickets and on each gambling house, and \$500 on each tombala.

With the War Between the States over, Louisiana's native sons, bent on a financial policy to regain once more the state's credit and provide means to operate the government, convened "the Last White Men's Legislature"¹⁹ in 1866.

Many of them were from the armies of the Potomac, Tennessee and the Trans-Mississippi, scarcely rested from the tedious camp and the weary march, with the grime of battle fields scarcely brushed from their gray garments. They were essentially the representative men of Louisiana, making up a body of which this or any State might well be proud, giving voice to the will of the people, striving to restore order, repair the ravages of war, re-establish fair and just government and provide ways and means for running the machinery of laws.²⁰

The General Assembly of 1866 passed a license law which brought in revenues from lotteries of \$36,000 in 1866 and the same amount in 1867 while the returns dropped to \$28,000 in 1868 when the Louisiana State Lottery Company was established.²¹ All the amounts were paid to the Charity Hospital.

Among the lottery agents profiting under the 1866 grant was Charles T. Howard who came to New Orleans in 1852 when he was 20 years old. He was agent for the Alabama State Lottery Company until he enlisted in the Confederate Army. With the war over he returned as the agent of C. H. Murray & Company, a firm with charters in Missouri, Kentucky, Virginia, Delaware and

¹⁶ Carleton, R. L., *Local Government and Administration in Louisiana* (Baton Rouge, 1935), 40.

¹⁷ Spofford, *loc. cit.*, 190.

¹⁸ *Idem.*

¹⁹ *Daily States*, May 20, 1890, 1.

²⁰ *Idem.*

²¹ *Idem.*

Georgia.²² The Company, according to affidavits made in suits, branched off from the Allied Gambling Industries with headquarters in New York City. Howard's associate was John Morrissey, a shareholder in C. H. Murray & Company of New York. The main lottery company tickets sold by Howard were from the Kentucky State Lottery Company.²³ Dave C. Johnston was agent for a rival firm, the Alabama Mutual Aid Association.²⁴

In the General Assembly of 1867, the House Finance Committee reported favorably on a bill to grant "a lottery charter to Messrs. C. T. Howard and others."²⁵ By the aid of those who opposed lotteries on moral grounds, Antonio Sambola, who was said to be representing the interests of the Madrid and Havana lotteries, succeeded in amending the bill to permit more than one company to engage in the business.²⁶ Rather than share the business with other companies, friends of the Company favored its postponement, which was carried out. Thus the Howard lottery was conceived in 1867 only to be born in the General Assembly in 1868 when carpetbaggers had secured a majority through the elections held under Reconstruction regulations.

Of the papers printed in English in New Orleans before the war, only the *Daily Picayune*, which was established in 1837 by George W. Kendall and Francis A. Lumsden and became well known for Kendall's Mexican war correspondence and feature writing, survived, while the *Bee* was the survivor of the French publication.²⁷

The *New Orleans Times* was established by Thomas P. May & Company on September 20, 1863, and the plant of the *Crescent* taken over as it had been suppressed by the rigorous military censorship.²⁸ The *Times* began as a "Union paper, but with the intention of bringing to an end the oppressive politico-military government, then existing, and of helping to restore civil government under white control."²⁹ Later the paper was taken over by Wm. H. King & Company. "The *Times* was always a conservative

²² Buel, C. C., "The Degradation of a State; or, The Charitable Career of the Louisiana Lottery," *Century Magazine*, XLIII (1891-92), 622.

²³ *New Orleans Times*, December 17, 1868, 5.

²⁴ *Idem*.

²⁵ *States*, May 27, 1890, 2.

²⁶ *Ibid.*, 4.

²⁷ Kendall, John S., "Journalism in New Orleans Between 1880 and 1900," *Louisiana Historical Quarterly*, VIII (1925), 557.

²⁸ Hart, W. O., "The New Orleans *Times* and the New Orleans *Democrat*," *Louisiana Historical Quarterly*, VIII (1925), 574.

²⁹ Kendall, *loc. cit.*, VIII, 558.

paper" and during the first part of the Reconstruction period "it more or less supported the existing conditions of things, on the theory perhaps that it was best to accept the inevitable."³⁰

The *New Orleans Republican* was established as the press of the carpetbaggers. "As a result of the Federal occupation a crop of short-lived newspapers had appeared which thrived on subventions from the Carpetbag government, and departed this life when deprived of that nutriment. Such was the *Republican*, in its day a very brilliant journal."³¹

CHAPTER II

LOTTERY CHARTER GRANTED

The story of the Louisiana State Lottery Company is an integral part of the history of Louisiana during the Reconstruction Era. On emerging from the War Between the States, public opinion in Louisiana found itself shackled and thwarted as military and carpetbag rule held sway until 1877. By 1877, the Lottery concern was rich and therefore powerful enough to hold its own against all assaults for more than a decade.

Louisiana was plagued with myriad evils after the war, but the birth of the Louisiana Lottery Company, the last and greatest of the lottery ventures, did not pass unnoticed by the press of the state.

In the beginning as in the end, the Lottery was marked by bitter political bickering. Even while the bill was in the legislative mill, a measure to outlaw it was introduced. Nor was it the last of the stream of bills to appear in the Legislature during the 25 years the Lottery existed.

The press did not exhibit any undue alarm until two weeks after the bill was introduced. The session of 1868 was the first one the carpetbaggers ruled completely and consequently the Lottery bill was only one of the many measures to which the press could have voiced opposition.

The daily press carried accounts of General Assembly sessions which were being held in Mechanics' Institute in New Orleans.

³⁰ Hart, *loc. cit.*, VIII, 575.

³¹ Kendall, *loc. cit.*, VIII, 557.

The *Times* reported under the House proceedings that on July 17, 1868, "B. C. Wren, (Rad.) of Bossier gave notice of his intention to introduce an act to increase the revenues of the State."¹ In the Senate the same day, Hugh J. Campbell sought to suspend the rules "to introduce a bill to establish the Louisiana State Lottery Company. Objected to by Mr. Todd. Rules not suspended."²

The following day Mr. Campbell again tried unsuccessfully to suspend the rules to introduce the measure to incorporate a state lottery company and then gave the usual notice of introduction of a bill. The *Daily Picayune* reported:³

This bill provides for a State lottery to be licensed \$1,000 per month, with the additional five per cent. tax to be deducted for all sales. This amount, it is estimated, will bring in a revenue to the State of from seventy to eighty thousand dollars a year. The bill further provides that the moneys accruing from said licenses and taxes be used only for charitable institutions.

In connection with Mr. Campbell introducing the Lottery bill in the Senate, it is interesting to note that Mr. Sambola, whose amendment in 1867 resulted in the indefinite postponement of the Lottery measure, was defeated in the senate race by Mr. Campbell who was seated over his opponent's protest. At an open-air meeting in New Orleans, Mr. Sambola denounced Mr. Campbell and read an extract from the Muscatine (Iowa) *Journal* entitled, "A Citizen of Muscatine Abroad," which said:⁴

It is certainly refreshing to know that genius and ability which the blindness of our people here could never discover, have at length found a field for their exercise and development in the reconstruction state of the South, and that a "citizen of Muscatine abroad occupies the important position of State senator in Louisiana."

There are some gentlemen in this city, who probably remember Mr. Hugh J. Campbell. At all events, if we are rightly informed, there is a suit impending against several gentlemen, and we believe one or two ladies, in this county, as securities on the bond of Mr. Campbell as County Treasurer—an office to which he was elected several years ago.

¹ *Times*, July 18, 1868, 2; *Picayune*, July 18, 1868, 2.

² *Picayune*, July 18, 1868, 2.

³ *Ibid.*, July 19, 1868, 6.

⁴ *Times*, August 13, 1868, 2.

Mr. Campbell later had the secretary of the Senate read an article from a Republican paper of Muscatine refuting the statements in the Democratic paper.⁵

The Campbell Lottery measure came up for its first reading, July 20. Under a suspension of the rules it was read a second time and referred to the Committee on Corporations. The board of managers named in the bill were, "Simon Jones, J. M. G. Parker, Nathaniel Page, D. C. Johnson, A. Morey, J. K. Belden, J. B. Howard, Adam Griffin, B. F. Joubert, Louis Dent, and Benj. Bloomfield."⁶

A favorable report was made July 25.⁷

Gray of St. James gave notice July 26 that he would introduce a House bill "To abolish lotteries and gambling in the State."⁸

The *Daily Picayune* printed only the minority report which said:⁹

To the Senate of the State of Louisiana:

The undersigned, a member of the Committee on Corporations and Charitable Institutions, being compelled to differ from a majority of the Committee in their favorable report on a bill to be entitled, "An Act to Incorporate the Louisiana State Lottery Company," submits this as his separate report adversely to the same:

First, because the object thereof is grossly immoral and corruptive to the community over which the General Assembly is made the guardian.

Second, because it gives exclusive privileges to the company so organized, which is contrary to good policy to give any incorporated company, were its object ever so praiseworthy.

Third, because though stock is to be subscribed for the amount of one million dollars, yet there is no provision that one single cent should be actually paid in.

Fourth, because the capital and property of the company organized for purposes so immoral, is by this bill made exempt from taxation, while that of the industrious and honest must be taxed to support the poverty and crime which its vicious inventives will produce.

A. B. BACON

⁵ *Ibid.*, September 8, 1868, 3.

⁶ *Picayune*, July 21, 1868, 2.

⁷ *Times*, July 26, 1868, 3.

⁸ *Picayune*, July 29, 1868, 2.

⁹ *Idem.*

Notice was given July 29 by E. L. Jewell that another bill would be introduced to prohibit the "sale of lottery tickets in the State of Louisiana."¹⁰ He offered the bill on August 1.¹¹

On the same day, the Lottery measure was called up. Campbell moved to make it the special order of the day the following Saturday but failed and gained "to recommit on corporations."¹²

Meanwhile the House measure which became the Lottery Act was being pushed through.

Under the report of the Committee on Corporations and Parochial Affairs, Mr. Campbell reported a substitute for the Lottery bill, and lost a motion to suspend the rules for a first reading.¹³ The same date in the House, Faulkner of Caldwell won a motion for "reconsideration of the vote recommitting to the Committee on Corporations the Louisiana Lottery Bill."¹⁴

It was reported, amended and adopted by the House August 4 and sent to the Senate for concurrence. The Senate passed it August 6, 28 to 3 (E. L. Jewell, Lynch and Ray voted negatively).

During the parliamentary maneuvering to pass it, Mr. Lynch objected to suspending the rules for a second reading as he declared there were more important matters to be taken up. "I am opposed to a bill which proposes to make capital out of the credulity of the ignorant, and which will bring poverty and misery upon many poor families. I hope that a measure to legalize gambling will never disgrace the statute books of the State of Louisiana."¹⁵

In later years, opponents pointed to the preamble of the charter as an apology for its existence. The first section said:

Whereas, many millions of dollars have been withdrawn from and lost to this State by the sale of Havana, Kentucky, Madrid, and other lottery tickets, policy combinations, and devices and fractional parts thereof, it shall hereafter be unlawful to sell, or exhibit for sale, any of them, or any other lottery.

The second section provided for a legalized lottery and warned, "the protection of the State against the great losses

¹⁰ *Ibid.*, July 30, 1868, 2.

¹¹ *Ibid.*, August 2, 1868, 2.

¹² *Ibid.*, July 30, 1868, 2.

¹³ *Ibid.*, August 4, 1868, 2.

¹⁴ *Idem.*

¹⁵ *Times*, August 7, 1868, 2.

heretofore incurred by sending large amounts of money to other States and foreign countries for the purchase of lottery tickets and devices, thereby impoverishing our own people."

With the bill passed by both houses and sent to Henry C. Warmoth, governor, the *Times* took cognizance of the matter editorially. It said:¹⁶

There are mysterious rumors in circulation relative to an alleged bargain and intrigue, by which the infamous printing bill was passed with but little opposition from the Democratic members, and the equally infamous lottery bill was passed without much opposition from the Radicals. Both are schemes of plunder for the benefit of interested parties, and each scheme has a different political paternity. The compact, as the story runs, was managed by certain wireworkers, and the rank and file of the opposing parties were kept in blissful ignorance of how the thing was to be managed. The Democrats did not vote for the printing bill. That was not necessary, for the opposing party had a strong working majority. But they might have offered such verbal opposition as would have made every man who voted for it a thing to be pointed out by scorn's unflinching finger and stared at as infamous forever. In like manner there was but a mere show of opposition to the lottery bill. Honest members, Democrat as well as Radical, were induced to overlook its other enormities, because of the sop proposed to be given annually to our charitable institutions. It will not however do to bargain with the devil for gold to support hospitals and asylums; nor are men—it matter not what political or religious faith they may maintain—worthy of being trusted who are so ready to

"Put a farthing in the urn of charity

And take a shilling out."

We trust that Gov. Warmoth will have the courage and honesty to veto this lottery scheme; by doing so he will earn a better title than he yet possessed to the confidence of the community.

As to the Democratic members of the General Assembly, we would respectfully suggest that being forced by fraud into so hopeless a minority, it would perhaps be well to withdraw altogether, in order that the Radical responsibility may be wholly undivided. The getting up of a new Howard Association on the lottery principle, will hardly compensate for the loss of caste which having a hand in such legislation involved.

¹⁶ *Ibid.*, August 8, 1868, 4.

In the first editorial the *Times* tended to assign "political paternity" of the Lottery to the Democratic Party, but the following day it softened its original indictment of the lack of Democratic opposition. The *Times* said:¹⁷

The suspicions of corruption in relation to the fraudulent lottery bill, so recently passed by our so-called General Assembly, are on the increase. We are glad to learn, however, that the stories in circulation so far as they affect the good faith of the majority of the Democratic members, are unfounded. The lottery Ring discovered more facile materials and itching palms in the great Radical majority, and on whom they arrested their assurances of success. But the public have got an inkling of what has been going on, and petitions, numerous signed have been or will be presented to Gov. Warmoth, asking him in the name of honesty and morality to veto this abomination. That petition, we feel assured, will be granted; and what the public wish in this regard the lottery schemers dread. This fear of ultimate results has already, in more than one instance, caused a promised *quid pro quo* to be withheld, for a vetoed bill does not become a law unless repassed by a two-thirds majority. Look out, ye schemers of the Ring, or your plan to enrich yourselves by impoverishing the poor to a still greater extent will yet prove only a Dead sea apple in your grasp.

It is obvious that the *Times* was apparently hopeful the Governor would veto the bill. When the Governor sent the bill to Speaker of the House C. W. Lowell, he asked leave to voice his opposition to the measure. Lowell said he would sign it under protest. The Speaker stressed the tendencies of the bill to encourage immoral practices and besides he said he objected to the informality under which the House passed the bill when it decided "forty-nine members were a quorum."¹⁸

The *Times* commented, "The iniquitous lottery bill is dead, but the odors of corruption make it more offensive than ever."¹⁹ It said it had communications which revealed the "most extraordinary particulars of the manner in which the Ring operated, and the large amount promised in one form or another as considera-

¹⁷ *Ibid.*, August 9, 1868, 2.

¹⁸ *Ibid.*, August 12, 1868, 2.

¹⁹ *Ibid.*, 4.

tion for confirmative votes." The *Times* asserted that some of the evidence was "exceedingly suggestive" and "may require explanation." The paper gave the following as a "speciman:"²⁰

No..... New Orleans, August 1, 1868.

I, Charles T. Howard, hereby promise to pay on demand to bearer One Hundred Dollars, on the final passage by the Legislature of the Lottery Bill, with my name in, and known as the House Bill No. 66.

(Signed) Chas. T. Howard

No wonder, when such open and barefaced corruption stared him in the face, the Speaker of the House refused to sign the bill, and protested against its passage. We have quite a reserve of facts still on hand in relation to this matter, and will bring them out if any attempt is made to galvanize the unholy thing into a new similitude of life.

The *Times'* plea for the Governor to veto the Lottery was not answered. Editorially it reported, "The members of the lottery ring were last evening in a state of high exultation. Gov. Warmoth has been gracious to them."²¹ The *Times* manifested surprise that the Governor did not veto the measure as it had understood he would in accordance with a resolution adopted by the Party's executive committee.

... As it was understood that the iniquitous bill would be vetoed, the course pursued by the Governor has taken the general public by surprise. When rumor was busy with tales of golden allurements offered, and the fact was patent that bribery and corruption of the most degrading and criminal character were employed in securing the passage of the bill, it was not supposed that a young politician like Mr. Warmoth would have dared to permit by silence and tacit approval such a bill to become a law. But he has done the deed, and in doing it has damned himself forevermore. He has done it, not only in the face of a general opposition by the worthy and respectable, but of suspicions which closely touch his own reputation, and the condemnation of the Executive Committee of his own party, as expressed in a published resolution. ...

The *Times* used the occasion as an opportunity to strongly rebuke Warmoth for not using his authority to bring "to justice those who have trampled on the sanctity of legislation by offering and receiving bribes for disreputable services, he has given

²¹ *Ibid.*, August 18, 1868, 4.

²⁰ *Idem.*

vitality to a grinding and perfidious monopoly, and has thereby entailed disgrace on both the legislative and executive departments of our State government."²²

By not vetoing the measure, Warmoth saved the Lottery supporters the trouble of sending the bill back for the two-thirds majority needed to pass it over a veto.

The *Picayune* in a short editorial quoted a "gentleman" who overheard a conversation between a white man and a Negro. The Negro had just returned from a conference with the Governor who had told him "he (the governor) did not veto the Lottery bill because the members of the Legislature had told him they would pass it over his head if he should do so, and not only that, but would take away from him some of the powers which they had invested in him." The *Picayune* declared the incident showed he "has no will of his own. He is threatened, and has not the manhood to do his duty fearlessly."²³

On the Senate floor, Senator Jewell charged Governor Warmoth with bribery and corruption, declaring he would resign his position unless he could prove his allegations. The *Picayune* urged, "Let the matter be investigated by all means. Let it never be said that the Governor of our State shrunk from such an investigation, or that the State of Louisiana refused to entertain charges touching the honor of the Executive."²⁴

Senator Jewell's resolution asking for a committee of three to make a sweeping inquiry of bribery and corruption on the part of the Governor and "guilty members of the Senate" was tabled 15 to 8 on August 25.

The *Times* took exception to the *Republican's* contention that "Gov. Warmoth was 'strongly opposed' to the lottery bill and would not have signed except for the large majorities it received." The *Times* said, "An honest man would do his duty regardless of consequences. Public opinion, without of the party [*sic*], furnishes altogether different reasons for the course." Had he protested, the *Times* pointed out, "the responsibility would have rested on those members of the Legislature who were willing to carry out

²² *Idem.*

²³ *Picayune*, August 19, 1868, 4.

²⁴ *Ibid.*, August 26, 1868, 2.

a covenant of corruption for a price." The editorial said the fears of the Governor were "popularly attributed" to a "diametrically opposite character." It continued:²⁵

. . . Certain parties were deeply interested in the passage of the bill. There was money in it if it became a law; none if it did not; and the means to which they were willing to resort had become patent to more than one "itching palm." We envy not the Governor's position.

The *Times* saw the episode as a blot which the national Republican Party would be forced to take cognizance of in view of circumstances under which it was passed. The *Times* said:²⁶

Even the Radicals of the North blush at the outrage perpetrated by the Radical legislature in fastening the villainous lottery schemes upon the State of Louisiana. One prominent Republican paper speaks of it as a "monstrous monopoly without safeguard; that will perpetrate wholesale robberies." How much greater will be their disgust at the iniquity perpetrated in their name when they learned that it was accomplished by wholesale and open bribery, from which scarcely one from the highest to the lowest officers of the State was exempt. Although the fraud was so shamelessly executed, and although abundant proofs of corruption were made public through the columns of this journal, yet the Radical Government of this State shuts out every opportunity for public redress. If we are thus powerless against what the paper quoted denominates "organized rogueries," what other ghost of a right is left us? Talk about liberties—Louisiana no longer has any.

Additional light was thrown upon the Lottery deal even before the Legislature adjourned. A suit was filed in New York by John Morrissey against Z. E. Simmons *et als.* as defendants. The *Times* in an editorial entitled, "Who Got the Forty Thousand?" explained:²⁷

It appears that the defendants had combined to defraud the plaintiff of certain shares which he had acquired in certain legislative grants of lottery rights in the State of Kentucky, Delaware, Georgia and Missouri, by creating a new combination founded upon a fresh, and new, and a very valuable grant from the State of Louisiana. The defendants Simmons and others, finding the old grants all extinguished and enjoined, let them slip, and expended "forty thousand

²⁵ *Times*, August 20, 1868, 4.

²⁶ *Idem.*

²⁷ *Ibid.*, October 11, 1868, 11.

dollars to get a grant from the State of Louisiana" and are not willing to share any portions of the profits with the lusty Morrissey, who thereupon sues and ventilates the whole transaction. . . . we confine ourselves to the fact which is alleged and legally proven, that in this suit, to Louisiana belongs the credit of having resuscitated a system which had been extinguished all over the Union, and that somebody or bodies in Louisiana got \$40,000 for their philanthropic endeavors in that behalf!

And thus Simmons & Co., got their grant, of which John Morrissey claims his share, but who got the forty thousand dollars referred to in the pleadings and proofs? That is the great question which we submit to the investigation of the assemblage of incorruptible and high moral patriots who hold "high festival" on Dryades street.

When the first carpetbag-controlled Legislature of Louisiana finally expired, the *Times* in its one-paragraph editorial gloomily lamented:²⁸

DIED

Tuesday night, at 12 o'clock, the Louisiana Legislature, after a long and troubled life, signalized solely by corruption and iniquity. As one of the first illustrations of the degradation of the proud State of Louisiana, its very existence was calculated to make every man blush with shame. The crime of its life was only equaled by the wickedness of its acts. Its death leaves the State plundered and bankrupted, with a people so shackled, mentally, morally and socially, as to evoke the pity of all more fortunate Americans.

Nine days after the Lottery Act passed, the corporation was said to have signed away its rights for 24 years from January 1, 1869, to Z. E. Simmons, John A. Morris and Charles H. Murray.²⁹ The firm assumed the title of Howard, Simmons & Co., and in 1872 Murray and Simmons withdrew or were bought out with Howard becoming "managing partner" to John A. Morris.

According to a court affidavit made in 1876 by John R. Irwin, whose name appears on the incorporation papers, and a similar one sworn to by F. F. Wilder, one time secretary, Howard used large sums "for bribing members of the General Assembly of

²⁸ *Ibid.*, October 22, 1868, 4.

²⁹ Buel, *loc. cit.*, XLIII, 623.

Louisiana and other persons, whose influence on behalf of himself or of said company, the said Howard wished to purchase or retain," which sums "amounted to at least \$50,000 during the first year of the organization of the company, which amount was paid to redeem promises made for votes in favor of the bill incorporating the company and for other similar services." "... the sums as apportioned and used by said Howard since that time amount to at least \$300,000."³⁰

In a suit brought by Marcus Cicero Stanley as head of C. H. Murray & Company, Zachariah E. Simmons in 1880, "swore that the money used to secure the charter in Louisiana really belonged to C. H. Murray & Co. . . . and that he (Simmons), Murray & Morris devised a plan to deprive the firm of its benefits." He alleged that Morris and his brother-in-law W. D. Hennon, at the request of a telegram from Howard went to New Orleans expressly to represent C. H. Murray & Company. The sworn statement asserted that Howard would not sign away unless given one-fourth interest in the trust and so the title became Howard, Simmons & Company with the ultimate owners being Howard and Morris.³¹

Thus amid charges of bribery and corruption by which the Company secured its charter the monopoly set about to crush its rivals, to undermine all opposition, and to grow so powerful that it became the greatest single force in the state and extended the tenacles of its influence into the national field.

CHAPTER III

THE LOTTERY COMPANY PROSPERS

The *Times* story of the opening of the Louisiana State Lottery Company in the old bank of New Orleans said the large upper hall was "filled almost completely from 12 M. to 4 P. M. and after, of which Mr. Charles T. Howard is President, and Mr. Chas. H. Murray Secretary."¹ The story continued:

The occasion was the commencement of business on the part of the Company, who now have everything in readiness to turn the wheel of fortune daily and periodically, according to the schemes which have been adopted. The collation to

³⁰ *Idem.*

³¹ *Ibid.*, 624.

¹ *Times*, January 1, 1869, 2.

which the guests were invited, was the most appetizing and sumptuous character, and enjoyed with becoming zest by the large company assembled. We looked at the mechanism of the mysterious wheels which henceforth will deal out fortune under the guidance of the blind goddess, and they certainly seem temptingly fair and impartial in their working. From this opening day of the new year, the Louisiana Lottery is an institution at the corner of St. Charles and Union Streets, and under the management which now controls it, it will doubtless secure a very liberal share of the patronage of those who indulge in the excitement of tempting fickle fortune. We passed a pleasant hour yesterday for which we are kindly indebted to the attention of Messrs. Howard & Murray.

Throughout the *Times* account there is a decided tone of friendliness, especially such phrases as "temptingly fair and impartial in their working," "very liberal share of the patronage", and "pleasant hour . . . we are kindly indebted to the attention of Messrs. Howard & Murray."

As the Company opened for business it moved swiftly to curb other sales. Dave C. Johnson, one of those originally given as a member of the "board of managers,"² was the first to face a suit in its drive. An injunction was secured January 2, 1869, in the Fifth District Court of the Parish of Orleans forbidding the Alabama Mutual Aid Association to sell tickets.³ The two litigants later reached an agreement, so Johnson alleged in 1878.⁴ In any event, advertisements of Johnson's firm reappeared in the papers.

Another object of a suit was against A. Richoux *et als* in 1871 for selling Havana and other lottery tickets.

The New Orleans grand jury of 1872 saw the prosperous lottery business as a menace and asked for relief.

A suit in Washington in 1871 attracted attention. The *Republican* reprinted a Washington dispatch which appeared in the *New York Herald* of March 15, 1871. The story said:⁵

Associate Justice Bradly, as Judge for the Circuit Court for Louisiana, had been hearing for eight days what are known as the Louisiana Lottery cases. The arguments were

² *Picayune*, July 21, 1868, 2.

³ *Ibid.*, January 3, 1869, 1; *Republican*, January 1, 1869, 1, February 1, 1869, 1.

⁴ *Democrat*, February 21, 1878, 1.

⁵ *Republican*, March 22, 1871, 1.

made before him at the Supreme courtroom. Action is brought by Henry Colton and Ben Wood against Charles Howard, of New Orleans, and others, asking that these lotteries be wound up and go out of existence. The profits realized from them exceed an average of \$50,000 a month. The array of counsel is very large. Senator Stockton of New Jersey; George Shea and Judge Emott, of New York, counsel for the plaintiffs, and ex-United States Judge Campbell, of New Orleans; ex-Judge John K. Porter, of New York; Courtland, Parket and J. W. Scudder, of New Jersey; Philip Phillips, of Washington; Pinckney White of Maryland; Mr. Billings of New Orleans, and William D. Henning of New York, counsel for the defense. Campbell made the leading argument, consuming eight hours, and Shea replied in an argument for four hours.

That news story reveals two rather significant things. First, that the Company was proving a financial success in view of the profits which "exceed an average of \$50,000 a month" and that it had resources sufficient to employ brilliant and adequate counsel. Second, that the Company picked representatives who had powerful influences in New York and Washington. It is significant to notice that among its attorneys was Billings who became a Federal judge and handed down so many favorable decisions to the Company. It was openly charged in speech and press that Judge Billings was "owned" by the Lottery. No suits ever were filed seeking damages for allegation.

Even though the Louisiana State Lottery Company was sanctioned by law, it was continually being made the object of attacks, resolutions and bills in the General Assembly. "To hold a monopoly on its lottery privilege and to assure the continuity of its operation, the company had to go into politics. Its influential lobbyists were present and at every meeting of the legislature ready to thwart any move against its prerogatives. With its gigantic 'slush' fund it debauched legislators, muzzled the press, made and unmade public officials, poisoned every channel of civic righteousness, waxed fat and subtly exercised a power greater than that of the State government itself."⁶

The various legislative measures brought up from time to time provided for such things as abolishing the chartered Lottery, revoking its charter so as to license other concerns, and seeking to learn if legislators of 1868 were bribed.

⁶ Chambers, Henry E., *A History of Louisiana*, II, 707.

Mr. Marrie of Terrebonne in January, 1871, introduced a resolution which head:⁷

That a special committee of three be appointed by the Speaker to examine the book and report to this honorable body on the affairs of the Louisiana Lottery Company, and that this committee be empowered to employ a clerk, to be paid the regular per diem of clerks of the House.

In the same month, Mr. Kinsella of Orleans gave notice of a bill to forfeit the Louisiana State Lottery Company charter and also all kinds of lotteries and gift enterprises.⁸

The Company was apparently successful at stifling all efforts to curb its thriving monopoly. In fact the Company was able to get Acts Nos. 9 and 10 of 1874 passed to halt the sale of foreign lottery tickets. Act No. 9 enabled a police court to fine and imprison offenders.⁹

All was not harmonious within the "Radical" bloc which was all-powerful politically. Dissensions arose between Warmoth and P. B. S. Pinchback, a Negro, on one side, and United States Marshal S. B. Packard and Speaker of the House George W. Carter on the other side.¹⁰

Because of the various reports of misgovernment and dissension within the Reconstruction party, Congress sent a committee to investigate. Of Governor Warmoth, the group reported:¹¹

He is a native of Illinois; entered the army from Missouri a democrat; had trouble with General Grant after the battle of Vicksburg; was charged with circulating exaggerated reports of the Union losses there; was dismissed the service by Grant, and was restored to his command by President Lincoln, his dismissal having been unjust, and procured through questionable motives. He retired from the army in 1865; went to Texas; was indicted there for embezzlement and appropriating Government cotton. Carter acted as his attorney; but when the case was called no prosecutor appeared, and the prosecution was abandoned. He returned to New Orleans, and before the reconstruction of Louisiana he was elected (by the negroes) a delegate to Congress, each voter depositing with his ballot fifty cents to defray

⁷ *Republican*, January 5, 1871, 1.

⁸ *Ibid.*, January 15, 25, 1871, 2.

⁹ *Democrat*, March 10, 1878, 6.

¹⁰ Fortier, Alcée, *A History of Louisiana*, IV, 117.

¹¹ Fleming, Walter L., *Documentary History of Reconstruction*, II, 39, quoting *House Report No. 92*, 42 Cong., 2 Sess., p. 24. Report of Messrs. Spear and Archer of the Congressional Investigating Committee, (1872).

Warmoth's expenses to Washington. He had been governor four years at an annual salary of \$8,000, and he testifies he made far more than \$100,000 the first year, and he is now estimated to be worth from \$500,000 to \$1,000,000 . . .

He is not the only illustration of the profitableness of Louisiana politics. One of his appointees, a tax-collector in New Orleans, received in fees and commissions over \$60,000 a year.

B. J. Joubert, a Republican, in a House document, said, "I think that the governor (Warmoth) has very bad advisers—that ambitious men are using him for their own purposes. They have already made fortunes; they are all rich. . . ." ¹²

Debts and liabilities of the state were \$14,000,000 in 1868, but within three years they were \$41,000,000. ¹³ A Congressional report stated in 1874 that in two years, the securities of Louisiana had fallen from "70 or 80 to 25; while the fall in bankshares, railroad shares, city and other corporate companies, have, in a degree, corresponded." ¹⁴

When William P. Kellogg, a carpetbagger, succeeded Warmoth, whose regime was one of dazzling extravagances, the administration had to face the problem of reducing the mammoth state debt which had been defaulted in 1873. The State Auditor listed the debt as \$24,356,338.72. ¹⁵ An additional sum of \$4,803,083.33 was listed in an attached statement to the report as "miscellaneous debts." ¹⁶

After the tax rate jumped from 37½ in 1865 to 75 cents in 1869, overburdened taxpayers attempted to halt the spending by adopting in that year a constitutional amendment limiting the debt to \$25,000,000. ¹⁷ But the burden climbed until the rate was \$2.15. ¹⁸ In 1871 a New Orleans committee of property owners and taxpayers issued in three languages an ultimatum that increased taxation must halt and warned bankers, brokers and interested bondholders that debts in excess of the constitutional amount would not be paid. The circular gave figures to prove

¹² *Ibid.*, II, 46-48, quoting *House Misc. Doc. No. 211*, 42 Cong., 2 Sess., pp. 454, 478.

¹³ Fortier, *op. cit.*, IV, 120.

¹⁴ Fleming, *op. cit.*, II, 56, quoting *House Report No. 101*, 43 Cong., 2 Sess., p. 5, (1874).

¹⁵ Caldwell, Stephen A., *A Banking History of Louisiana* (Baton Rouge, 1935), 104.

¹⁶ *Ibid.*, 105.

¹⁷ *Ibid.*, 103.

¹⁸ *Idem.*

its contention that the amount was \$15,000,000 in excess of the constitutional limitation.¹⁹ The *Republican* quoted the Auditor as admitting the debt exceeded \$41,000,000.²⁰

A bill introduced by Antoine to incorporate the New Orleans Lottery Company was made the special order of the day for February 25, 1874.²¹ The *Daily Picayune* reported on that day:²²

Early in the morning the subject appeared to create the greatest excitement. It was alleged that sixty-eight affidavits had been made before the Grand Jury, charging members with obtaining money under false pretenses, having been paid certain sums by the old company to advocate its privileges. Such honorable gentlemen, whoever they may be, as advocated the new bill, while making money from the old, were consequently thrown into the greatest trepidation.

There were, of course, others who claimed that it was unconstitutional to advocate any new measure, the State having granted a charter to the old corporation which it cannot break. Each of these was prepared to do or die, and altogether a lively war seemed on the tapis.

The matter, however, was ignominiously disposed of when it really came up, being deferred from one hour to another until the adjournment of the House left it stranded among the other unfinished business.

When the credit of New Orleans reached a low ebb in 1874, the city defaulted on some outstanding bonds bearing interest at the rates of 5 per cent, 7 per cent, 8 per cent, 7.30 per cent and 10 per cent.²³ D. H. Adler submitted to the City Council a plan to pay the principal and interest within 50 years. The council approved as did the Legislature in July, 1876, by Act 31. Because the plan carried a lottery feature "by which prizes were distributed every six months on such of the bonds as might be drawn from the wheel of those previously drawn in serials,"²⁴ the Louisiana Lottery Company filed a petition on June 8, 1875, in the Superior District Court to restrain the city.

¹⁹ *Ibid.*, 104.

²⁰ *Republican*, January 17, 1872, 6.

²¹ *Picayune*, February 25, 1874, 2.

²² *Ibid.*, February 26, 1874, 1.

²³ Hart, W. O., "An Interesting Incident in Connection with New Orleans Premium Bonds," (Paper read before the Louisiana Historical Society on Tuesday, February 27, 1925), *Louisiana Historical Quarterly*, VIII (1925), 248.

²⁴ *Idem*.

The *Daily Picayune* expressed the belief that the plan did not infringe upon the Lottery firm's rights. It said:²⁵

We cannot bring ourselves to believe that there is more in this affair than a purpose on the part of the lottery company to preserve its lawful rights and to perfect its records of self-defense and self-assertion. The Lottery Company has too many interests in common with the community, and is too far amenable to public opinion, to commit the folly of an absolute attack on a financial policy which is so satisfactory and so promising to the people in general.

As the *Picayune* predicted, the Company withdrew the suit on June 16 after having gained its point.

The *Picayune* carried an advertisement of the Havana Lottery drawing to take place December 23, 1875. The distribution was to include \$1,200,000 with a capital prize of \$500,000. Whole tickets were \$100.²⁶

The *Picayune* in its news columns, stated that the Lottery management would not scale the prizes at the drawing December 27, 1875. It said the Company would take the risk of unsold tickets.²⁷

Fortunately for all, the sales have reached a point which justifies the company in abandoning that privilege . . . all prizes will be paid in full.

This is not only a wise measure upon their part but a liberal one, and the near approach of the eventful day should warn all in want of a competency to lose no time in availing themselves to the heretofore unparalleled advantages thus afforded.

The next day the entire front page of the *Daily Picayune* was used for a Lottery advertisement of the "Grand Golden Drawing." The advertisement read from the bottom of the page to the top instead of from left to right.²⁸

A week later the *Picayune* carried a front-page news story which was an encouragement to readers to participate in the mammoth drawing. The story printed under the heading, "The Great Event," said:²⁹

The public cannot feel otherwise than gratified that their interests in the Grand Golden Drawing of Monday,

²⁵ *Picayune*, June 10, 1875, 4.

²⁶ *Ibid.*, December 5, 1875, 1.

²⁷ *Ibid.*, December 11, 1875, 1.

²⁸ *Ibid.*, December 12, 1875, 1.

²⁹ *Ibid.*, December 19, 1875, 1.

Dec. 27th. have been so amply cared for and protected by the managers of the Louisiana State Lottery Company in perfecting arrangements for the actual drawing.

At its home in this city the character of the institution promoting it is too highly esteemed to render any of the precautionary measures announced at all necessary. It is probably in deference to a public confidence, which has been shaken abroad by the smart practices of parties conducting other enterprises similar in style but vastly different in nature, that has impelled them to surround the Golden Drawing with safeguards that can under no circumstances be either impeached or questioned.

Fortunately the Louisiana State Lottery differs from all others that have of late existed. Acting under a State franchise accorded for a term of years, its business is necessarily reduced to a complete, safe and economical system. It is thus enabled to afford more liberality, to assume heavier risks, and to inspire more confidence than usually falls to the lot of lottery institutions. Its promises are consequently to be implicitly relied upon, and in no case during a seven years' existence has a single responsibility remained unfulfilled.

The knowledge of these facts should commend the Golden Drawing to popular favor. And we are gratified to hear that its success abroad is scarcely rivaled by its success at home. Long ago this had reached a point to warrant the managers in announcing that no scaling of prizes would take place, thus yielding the last favor the public could possibly demand.

Now there is one thing quite as absolutely certain as a fair and impartial drawing, and that is, "somebody is destined to win \$100,000 in gold, on Monday, December 27," to say nothing of hundreds to be enriched with smaller prizes. Another fact is equally patent, that all who fail to buy tickets cannot become that fortunate one. Now Fortune is a fickle goddess, and it is impossible to tell upon whom her favor will be bestowed. The very best thing anybody can do is to purchase a golden drawing ticket and get within her reach. This advice is hardly necessary, however, as the unprecedented demand for tickets has long since demonstrated.

Obviously, the *Picayune* became extremely friendly and even excessively boastful of the Lottery enterprise. No doubt the full-page advertisement was a significant factor; that is especially true since it appeared almost concurrently with the extremely friendly news accounts.

The *Picayune* carried a two-and-a-half-column account of the drawing which lasted from 8:45 a. m. to 4:45 p. m. The story told about the elaborate system used to assure honesty as the capsules were withdrawn from glass wheels by blindfolded boys and passed on to the commissioners and committee members. "After the drawing of every twenty prizes the wheels were turned so as to render the mixture of the capsules more perfect."³⁰

No 582 won the \$100,000 prize. The *Picayune* declared, "We have learned since the drawing that half of the ticket winning the \$50,000 was sold in this city; the whole of \$10,000, and several \$5,000 prizes, besides a great number of the smaller prizes." However, the paper did not mention any specific persons winning, although it certainly must have been a newsworthy angle. No mention of ticket No. 582 was made until the New York *Commercial Advertiser*, apparently considering that a significant and a pertinent newsworthy subject, inquired, "Who held No. 582 in the Louisiana Lottery?" To which the *Picayune* eight days after the drawing replied almost as though it considered the matter of little value, "It was unsold, and returned to the Company from Memphis."³¹ So the *Picayune* was not such a good fortune teller, for no one received the prize.

The Kellogg administration did succeed in scaling the debt down 40 per cent and made some headway in funding the debt in issuing consols.³² No doubt the financial condition during this period made the lottery opposition to a large extent tolerate the monopoly. Perhaps the anti-lottery leaders felt that lottery was a secondary evil compared to the carpetbag government, and since the Company was powerful, they sought its influence rather than fight it. It was a rich and generous firm when it came to politics.

The days of the panic of 1873 were hard ones for the state. Commerce had steadily dropped since the decline began in 1870 as railroads resulted in shipments being deflected from New Orleans and as the mouth of the Mississippi became unnavigable.³³ In 1874, Congress provided for improvements and Captain Eads set out to try his plan.³⁴

³⁰ *Ibid.*, December 28, 1875, 2.

³¹ *Ibid.*, January 5, 1876.

³² Caldwell, *op. cit.*, 105.

³³ *Ibid.*, 98.

³⁴ *Ibid.*, 99.

But better days were to come, and in the midst of the wave of purification that swept the state with the overthrow of the carpet-bag rule in 1877, a determined fight was to be made to purge the body politic in the Lottery monopoly.

CHAPTER IV

DEMOCRAT LEADS FIGHT ON LOTTERY

The publication of the first issue of the *New Orleans Daily Democrat* on December 19, 1875, marked the birth of a journal that proved to be the first great opponent of the Louisiana State Lottery Company. It was young and energetic, and untiring in its assaults upon the Lottery interests. The *Democrat* did not have precedent to go by as did its contemporaries; therefore, it did not hesitate to lash the Lottery ring. Even against the wishes of the administration which it had supported, the paper pressed on in the face of heavy odds.

Men behind the *Democrat* "enterprise included John McEnery, the de jure governor of the state, B. F. Jonas, afterwards United States Senator; Judge T. C. W. Ellis, Dr. C. E. Austin, and others of equal prominence."¹ "The real originator of the *Democrat* was George W. Dupré,"² member of the Legislature. The paper was issued from the office of the *Delta* at No. 74 Camp Street.

The *Democrat*, "frankly a political organ," was the result of the reaction of Democrats to the springing up of Republican papers.³ No doubt it was also the result of the passiveness of the *Times* and the *Picayune*. After the seating of Nicholls following the routing of the Packard supporters, the *Democrat* became the official journal of the state in return for its part in the overthrow. But it followed an independent course. That was especially true when the editors broke with Nicholls over a question of patronage.⁴

The first editor of the *Democrat* was Robert Tyler, son of a former president of the United States. The *Daily Picayune* described Mr. Tyler as "a journalist of long experience and of

¹ Kendall, *loc. cit.*, VIII, 557.

² Hart, *loc. cit.*, VIII, 578.

³ Kendall, *loc. cit.*, VIII, 557.

⁴ Hart, *loc. cit.*, VIII, 579.

well-earned reputation, . . ."⁵ Tyler was soon replaced by Major H. J. Hearsey, "one of the most vigorous editorial writers that New Orleans has ever known."⁶ Major Hearsey was formerly of the *Shreveport Times*.⁷ In the masthead during 1877 appeared the following:⁸

George W. Dupre & Co.
Prop.

George W. Dupre
H. J. Hearsey John Augustn
Albert C. Janin

Major Hearsey was listed as editor. The *Democrat* appeared as a morning paper on January 23, 1877.⁹

Page Baker, one of the founders of the *New Orleans Herald*, purchased the *Picayune* in 1873.¹⁰ Later Baker, in connection with Dan Byerly, established the *Bulletin* which was the strongest advocate of the White League formed to wrestle the control of the state government from the carpetbaggers.¹¹ At one time the *Picayune* was spoken of as the paper of "The Two Hundred and Fifty Editors" because \$80,000 was still owing the stock company of 250 members from whom A. M. Holbrook purchased the paper for \$100,000.¹²

Holbrook became president of the New Orleans *Picayune* Printing Company in December, 1873.¹³ The last issue in which his name appeared as president was December 15, 1874,¹⁴ and three days thereafter no publishing company was carried in the masthead.¹⁵ On December 19, Holbrook was listed as editor and the following paragraph was printed:¹⁶

The public may rest assured that there will not be any change in the *Picayune* as regards either its tone, editorial or business management.

A. M. HOLBROOK

His name appeared as "Editor and Proprietor" on December 23.¹⁷

⁵ *Picayune*, December 21, 1875, 4.

⁶ Kendall, *loc. cit.*, VIII, 558.

⁷ *Democrat*, April 2, 1877, 1.

⁸ *Ibid.*, January 23, 1877, 4.

⁹ *Idem.*

¹⁰ Hart, *loc. cit.*, VIII, 583.

¹¹ *Idem.*

¹² Kendall, *loc. cit.*, VIII, 560-561.

¹³ *Picayune*, December 23, 1873, 4.

¹⁴ *Ibid.*, December 15, 1874, 4.

¹⁵ On page one of the edition of December 19, the date under the nameplate was not changed from December 18.

¹⁶ *Ibid.*, December 19, 1874, 4.

¹⁷ *Ibid.*, December 23, 1876, 4.

On January 5, 1876, Holbrook died.¹⁸ The lead of the story read:

Lumsden, Kendall, Bullitt, Wilson and now A. M. Holbrook, the last of that brilliant union of talent, enterprise and energetic industry which gave prestige and fame to the *Picayune*, has passed from the shore; and his name becomes historical.

Even after his death "A. M. Holbrook, Editor and Proprietor" continued to appear in the masthead of the paper until March 26, 1876, when the officials were given as Mrs. A. M. Holbrook, proprietor, Geo. W. Lloyd, managing editor, and Geo. Nicholson, business manager.¹⁹ An editorial on the same page said it would continue to be "a strictly independent journal," although it would not "occupy an attitude of neutrality or indifference in reference to those great issues which agitate the entire nation and affect the interest of every class and section." The statement about national issues proved to be the main topic of editorials, as the *Picayune* tended to steer clear of local issues.

Mrs. Holbrook was "Pearl Rivers," the poet. Against the advice of lawyers and friends who urged her to dispose of the paper because it was overwhelmed with litigation and \$80,000 of the \$100,000 paid for it was still due, Mrs. Holbrook heeded the counsel of Don José Quintero, picturesque member of the *Picayune* staff, and remained in charge. Kendall, who joined the staff in 1891 as a reporter, said she once confided to him:²⁰

I never felt so lonely and little and weak in my life as on the first day when I took my seat in Mr. Holbrook's big editorial chair, and for months afterwards my lack of confidence was so great that I used to wonder why the staid old *Picayune*, accustomed to be managed by such wise old fellows like Kendall, Holbrook, Bullett, and Wilson, didn't just roll over and split its sides laughing at me.

Mrs. Holbrook later became Mrs. George Nicholson, "one of the oldest and most capable of the employees of the paper; and these two, working together, brought the *Picayune* back to something like its old prosperity."²¹

¹⁸ *Ibid.*, January 5, 1876, 1; reprint of story in *Mobile Register* of January 7, 1876, in *Picayune*, January 9, 1876, 1; Kendall *loc. cit.*, VIII, 558, gave his death as 1874 while *Biographical and Historical Memoirs of Louisiana*, II, 159, gave the date as January 3, 1876.

¹⁹ *Picayune*, March 26, 1876, 4.

²⁰ Kendall, *loc. cit.*, VIII, 558-559.

²¹ *Ibid.*

The *Democrat* did not have long to wait until the Lottery question was brought to the forefront. Early in 1876, Mr. Ray introduced two measures aimed at the Lottery business. One was to forbid the unlicensed sale of lottery tickets in Louisiana and providing penalties for violations, and the other was to repeal the act incorporating the Louisiana State Lottery Company.²² The majority report of the Committee on Judiciary said that the Legislature was competent to repeal the law as the constitutional defects carried no weight.²³ It finally passed the House by a vote of 52 to 24 votes,²⁴ but the Senate did not act.

One of the cleverest bids for favorable public opinion that the Lottery Company ever made was in 1876 when it employed Generals Beauregard and Jubal Early to be commissioners. Beauregard, the idol of Creole Louisiana, was popular throughout the South while Early, who was a trusted lieutenant of Lee,²⁵ carried weight in the North. Beauregard "carried off honors of the first pitched battle of the Confederacy, and to the last day of the struggle stood among its foremost soldiers."²⁶ He was quoted as having said he would "water his horse in the Tennessee River or in hell."²⁷ For a few hours each month, the two generals sat on the platform to insure honesty in the drawings and were paid amounts variously estimated between \$12,000 and \$30,000.²⁸ They issued statements from time to time attesting to the honesty of the drawings.

Because of the popularity of the two generals, the *Democrat* was cautious in its criticisms of them. When the two signed statements comparing the Louisiana Lottery to others, the *Democrat*, in a mild tone, denied that the state firm was as liberal as others in the world and offered figures to back its assertion.²⁹

In 1876, Deny Da Ponte who owned 60 shares of Lottery stock brought suit to set aside the contract which gave the power and half of the profits to Howard and Morris. The suit was never tried for it seemed to have cemented the friendship of Howard and Da Ponte.³⁰

²² *Daily Picayune*, February 10, 1876, 2.

²³ *Ibid.*, February 11, 1876, 2.

²⁴ *Ibid.*, February 17, 1876, 2.

²⁵ Buel, *loc. cit.*, XLIII, 620.

²⁶ *Idem.*

²⁷ *Idem.*

²⁸ *Idem.*

²⁹ *Democrat*, June 14, 1878, 4, June 16, 1878, 2.

³⁰ Buel, *loc. cit.*, XLIII, 625.

In connection with the labor agitation of 1878, the *Democrat* opined that the complaint of statesmen was "against rings and monopolies, and the suspicious privileges and vested rights. . . . To government interference, to administration policies and legislation was due the *Credit Mobilier*, Black Friday, the Freedman's Bank, the possibility of Indian and Whiskey rings, and, when we get down to State affairs, the infamous lottery swindle, the Slaughter-House, the numerous other steals by which the people have been robbed during the past decade."²¹

The *Democrat* urged repeal of Acts Nos. 9 and 10 of the session of 1874. It charged that Act No. 9²²

by its few brief sentences, every principle of the Magna Charter and of the constitution of the United States is violated, and, under its authority, one of our fellow-citizens *without having been tried by jury*, without having committed any offense against the State, without the benefit of appeal, lies in jail this morning, while the members of the Legislature are reading this article.

. . . . The members of the Legislature, by turning to the acts of 1874, will find that act No. 9 provides for punishment, by fine or *imprisonment*, by police court, without trial by jury, of offenses, not against the State or city, but against the gambling monopoly known as the Louisiana Lottery Company. Some few weeks ago Herbert Geale, a poor fellow about town, with intellect insufficient, we fear, to make an average member of a Legislative body, but a free citizen of Louisiana, innocent of any crime, was arrested on the affidavit of an agent of the Lottery Company on the charge of having perpetrated against the lottery monopoly the crime described in act No. 9. . . . The Supreme Court examined the question with great care, and last week declared its inability, under the *Constitution of Louisiana*, to exercise jurisdiction in the case.

The editorial made a passionate plea and asked, "Was the constitution so framed that corrupt legislatures might pass such acts in the interest of pernicious monopolies, and in the same sentences in which they give over the liberty of the citizen to a ring of gamblers exclude him from the protection of the highest courts?" It related that Geale borrowed a dollar the previous morning from a friend "to buy meat and bread for his family.

²¹ *Democrat*, August 22, 1878, 2.

²² *Ibid.*, March 10, 1876, 6.

A few hours later he received his sentence for having trespassed upon the sacred rights of the lottery monopoly worth millions of dollars. When he was led out of court and taken to the Parish Prison, a friend sent a message to inform his family of the fact. The messenger found, seated on the steps, a keeper; his furniture seized for debt. An elderly lady came to the door. She said Mr. Geale's wife was ill. When she was told that he had been sent to prison for five days she burst into tears and turned away into the house without a word."

It was a pathetic picture that the writer had skillfully put into words. The editorial cried out, "Has the Democratic Legislature now in session the courage—good, [sic] no—we mean the cowardice, to adjourn without striking a blow at the Louisiana Lottery monopoly?"

The *Democrat* carried an item that reported an Italian priest named De Mattia won a \$420,000 prize on odds of 500,000 to one. Investigation by the government resulted in the winner confessing he "had no less than eleven confederates in the government employ in the swindle." The *Democrat* concluded:³³

... later news and the disastrous fate of Da Mattia and his fellow-conspirators has cured this disease, and the people of Italy have at last come to the conclusion that the only way in which you can beat a lottery company is by swindling it, and that in swindling the lottery has far more chances than the average private citizen.

The *Democrat* offered this comparison of the Italian schemes:

De Mattia, for instance, bet on the first four numbers coming out—the Louisiana Lottery for the first three numbers coming out gives only \$5,000, the Italian government for the first four numbers gives \$420,000.

Apparently, the company decided to launch an expansion program. The Vienna (Lincoln Parish) *Sentinel*, one of the country weeklies to receive a contract, commented:³⁴

We have received a letter from the agency department of the Louisiana Lottery Company to know our terms "for one column, one year, payable quarterly in advance, with privilege of one change per month." The letter states that the company "is desirous of increasing our business in your

³³ *Ibid.*, July 23, 1878, 4.

³⁴ *Ibid.*, May 6, 1878, 2.

section of the State," and wishes our lowest terms as above. Now that sounds business like, and no doubt the president means business. . . .

The editorial declared that the offer of the Company was attractive. It touched on how powerful the Company was, but asserted:

The company has strong supporters, and will die hard. Boss Tweed once had the State of New York, or at least the officials, under his control, but the press being aroused, enlisted the people, and he died a transgressor, and within a jail. So, if the press of the State is true to the best interests of the people, and although the *Democrat* is the only city paper we wot [sic] of that is opposing the lottery, yet, with the country press, this monopoly can and will be suppressed.

The contract, on the company's terms, is declined.

Many other country weeklies refused Lottery advertisements on the grounds that the Company was a swindle.

As the Company began to grow stronger in the East, papers there began to mobilize public opinion against the Lottery.

When residents were arrested on charges of selling lottery tickets in violation of Act No. 9 of 1874, the *Democrat* was always greatly aroused Under an editorial title of "AN OUTRAGE," it once declared:³⁵

On Monday Mr. Stanislas Plassan, an estimable gentleman and reputable merchant of this city, was arrested at his office and dragged before Recorder Smith, by Gaspaid J. Schreiber, one of Charles T. Howard's pimps and private detectives, on a trumped up charge of selling Havana lottery tickets. The charge is an infamous lie, as Mr. Plassan has no more connection with selling Havana lottery tickets or any other lottery tickets than Howard and his brother thieves have with decency and honesty. . . .

The *Democrat* also argued that Art. 94 of the Constitution made Act No. 9 of 1874 unconstitutional, as selling lottery tickets is not "a case arising under the police regulations of towns and cities" as provided for in the measure.

As a result of that editorial, the Lottery Company filed suit against Albert C. Janin, one of the proprietors, charged libel on three phases and asked damages of \$25,000 and interest. The three

³⁵ *Ibid.*, May 15, 1878, 4.

counts were "Howard and his brother thieves," "Howard's swindling concern," and "Howard and his pals treated to a short shift and a long rope." The suit said Janin wrote and caused the editorial to be published.³⁶

The *Democrat* asserted that the Lottery concern had two objectives to win by the suit. They were:³⁷

1. To partially, and as far as possible, reimburse themselves for the outlay this fight has forced them to make—for the money they have paid out in bribes, attorney's fees, and for the employment of spies, courts, cabinet officers, and witnesses.
2. To crush the *Democrat*, the only paper that has had the courage to attack their swindling monopoly.

The editorial contended that all the proprietors were equally as responsible as Janin was. It declared, "We accept the challenge thrown down to us in this suit."

Quite a bit of excitement was caused when Judge Smith of the Superior Criminal Court ordered Antonio Agosti rearrested after he had been released on a writ of *habeas corpus* issued by Judge Houston of the Fourth District Court. Judge Houston granted a second writ which his brother, Sheriff Houston, refused to honor on the grounds that he had an order from the Superior Criminal Court to hold Agosti.³⁸ Judge Houston then held his brother in contempt of court and issued a "writ for a *posse comitatus*" calling on the sheriff to enlist the aid of every able-bodied man to enforce the order at noon, May 30.³⁹ Sheriff Houston called on the Governor to discuss calling out the militia. At the request of the Governor, Judge Houston, accompanied by Judge Rogers, discussed the matter with the Governor.⁴⁰ However, at noon, May 30, Sheriff Houston obeyed the writ.⁴¹

While in jail, Agosti sued the Louisiana Lottery Company for \$25,000 with interest and costs for false imprisonment.⁴²

The *Democrat* took a leading part in the fight and heartily approved when Recorder Miltenberger ruled that the case of P. Saloy and A. Saranda had to be tried by jury, as Act 10 of

³⁶ *Ibid.*, May 19, 1878, 12.

³⁷ *Ibid.*, May 21, 1878, 4.

³⁸ *Ibid.*, May 30, 1878, 1.

³⁹ *Idem.*

⁴⁰ *Idem.*

⁴¹ *Ibid.*, May 31, 1878, 4.

⁴² *Ibid.*, May 30, 1878, 8.

1874 superseded Act 9. Act 10 provided for trial by jury. Sambola, who was successful in killing the Lottery bill in the Legislature in 1867, defended the men.⁴³

Chances of winning the daily drawing prizes were one in 76,076, according to the *Democrat*.⁴⁴ When nearly all of the \$175,000 in prizes in the June 11, 1878, daily drawing were won by residents of New Orleans, the *Democrat* said that the Lottery realized it had to do something to restore the confidence of the people and so it permitted them to win.⁴⁵

The *Democrat* obtained all the news it could on the Lottery. A special Washington dispatch to the paper said, "The Lottery interest, not only in Louisiana but elsewhere, are bestirring themselves to combat this movement of the Postoffice authorities."⁴⁶ The movement on foot was to seize obscene, immoral and objectionable matters passing through the mails. This postal movement was the beginning of a drive that delivered the death blow to the thriving Lottery business. Editorially the same day, the *Democrat* said:⁴⁷

There is a very stringent Federal statute against the circulation of lottery matter through the United States mails; but the Louisiana State lottery, which for nearly eight years owned State and Federal Judges, newspapers, Governors and Legislatures in this State, learned to entertain a very supreme contempt for laws of any sort. . . . this overgrown and arrogant monopoly assumed that laws were only made to enable courts and public officials to make money by accepting bribes. . . . Sometime ago we called attention to the fact that Mr. J. M. G. Parker, the Postmaster of New Orleans, was a large stockholder in the Lottery, and was conniving at this gross violation of a very wise and beneficial law.

Naturally the Louisiana State Lottery Company girded itself for the national fight as well as the state battles. For some time it had been recognized by the Republicans in Washington as being an important factor in Louisiana politics. It was no secret that many of the Republicans in Louisiana were controlled by it and therefore Washington officials had grounds for attributing authority to it.

⁴³ *Ibid.*, May 19, 1878, 1.

⁴⁴ *Ibid.*, June 6, 1878, 1.

⁴⁵ *Ibid.*, June 13, 1878, 4.

⁴⁶ *Ibid.*, March 8, 1878, 1.

⁴⁷ *Idem.*

As to the postal move, the *Democrat* was pleased. "We are much gratified at this. If the law is enforced in this matter it will greatly curtail the power of the Lottery for evil and cut off a large part of the revenues by which it maintains its insolent power amongst us." It expressed regret that the federal authorities acted "with so much more promptness than the Legislature of Louisiana in striking at this evil, which is a disgrace to our State laws and our civilization."⁴⁸

The next day the *Democrat* followed up with a news story under the headline, "Monopolies Rule the Land." The story related that a young man called at the postoffice to get a registered letter when a clerk of "C. T. Howard" appeared at the window. The young man had to step back and wait until "Mr. Howard's clerk had receipted for *eighty-four* registered letters before any attention was paid to his demand."⁴⁹

Sometimes appealing to reason and sometimes playing on the emotions, the *Democrat* was at all times fighting the Lottery. The *Democrat* commented that it had noticed "the following advertisement in a large number of the Northern and Western newspapers:"⁵⁰

The Charity Hospital at New Orleans enjoys deservedly a world-wide reputation. In the present afflicted condition of the Crescent City it seems providential that its existence has been maintained by the liberal gratuities received through the famous Louisiana State Lottery Company. The drawings of this institution take place monthly on the second Tuesday, and for information address M. A. Dauphin, P. O. box 692, New Orleans.

Indeed, the advertisement was a clever idea of cloaking the Lottery firm in the robes of benevolence. Indignantly and feelingly, the *Democrat* cried out:

Our eyes have never before fallen upon so base and infamous an advertisement dodge as this. During the prevailing epidemic we have seen many mean and heartless things. We saw with our own eyes a heartless scoundrel threaten to turn a widow and her two children, the latter yellow fever convalescents, out of a miserable shanty, not worth five hundred dollars, because the wretched woman could not pay her rent. . . . But we have never met with nothing in all our

⁴⁸ *Idem.*

⁴⁹ *Ibid.*, March 9, 1878, 4.

⁵⁰ *Ibid.*, September 11, 1878, 4.

experience which compares with this scheme of the Louisiana Lottery Company to enlist the best and noblest impulses of human nature in its swindling gambling scheme.

In this period of universal affliction all classes of the community have sunk their antagonisms and interests in a common effort to serve humanity. . . . Not so, however, with the Louisiana Lottery Company. That institution grins and laughs in this day of calamity and puts forth a lying advertisement, based upon our great affliction, to enlist the aid and support of the charitably inclined in its nefarious and swindling schemes.

. . . The names of all our philanthropists and of all of our great physicians are identified with the history of the Charity Hospital . . . anterior to the era of political scoundrelism which brought into existence the Louisiana Lottery Company.

The biting editorial which was a column long ended by declaring it was "a scandal and a shame that a swindling lottery company" should hold itself up as the "staff and only support" of the Charity Hospital. It certainly must have been damaging to the Lottery to be pictured as a bird of prey feeding on the sufferings of the people harassed by the dreadful yellow fever epidemic of 1878.

Three months later, the *Democrat* published a letter signed "G." The letter said a man in the interest of Mr. Howard called and insisted "upon a commendatory testimonial in the shape of a card from those in charge of the institution declaring the Louisiana State Lottery a public benefactor, and as being necessary to the welfare and support of that well-conducted charity—even going so far as to offer \$200 in promises for the puff. . . . The young gentleman failed to succeed. Just about this time the stalwart vice president rose in sight, who very plainly informed the nice young man that if Mr. Howard *did* give the State \$40,000 in taxes for the right of monopoly, there would be others who would gladly give twice the sum for the same privilege. . . ." Following the signature was this threat, "If this thing is denied the proofs will be forthcoming instantler."⁵¹

Howard was somewhat of a mystery person in political wire-pulling behind the scenes during the presidential election of 1876 and the restoration of white control. Howard was actually

⁵¹ *Ibid.*, December 1, 1878, 8.

received by President Hayes and was said to have guaranteed expenses of a Louisiana commission to study conditions in the state.⁵² Congress refused to foot the bill.

On one of his visits to New York Howard was arrested, but was released immediately.⁵³ Pat Burns, who swore out the affidavit, was later sent to the Toombs in default of bail on a perjury charge growing out of the Howard arrest.⁵⁴

The *Democrat* reprinted a story from the *New York Times* (of November 27, 1878) of a raid on the lottery dealers with Anthony J. Comstock, special agent of the Postal Department in charge.⁵⁵ A story from the *Philadelphia Times* told of a similar raid in that city.

The *Democrat* said that the northern cities, "have begun to feel the evil effects of this lottery, although they have suffered from it but insignificantly in comparison with New Orleans, and they have determined to root it out before it becomes so powerful that it can defy the law as it does here. . . . These raids and arrests have, of course, proved a heavy blow to the Louisiana State Lottery, cutting off some sections of the country from which it has always drawn a large and reasonably certain income."⁵⁶

A special dispatch from Washington reported that Comstock's seizure of mail there had practically closed down all lottery business. The story said that the matter had been referred to the Attorney-General as the United States District Attorney with whom Comstock filed charges was not sure whether he should proceed "against the senders of immoral mail matter, or be guided by Devens' opinion of last winter in the Postmaster General's Case."⁵⁷

Although hopeful that the Post Office Department would join in the battle on the Lottery, the *Democrat* was dubious in view of previous favoritism. It said:⁵⁸

This officer (the United States district attorney with whom the charges were filed) having in mind the very

⁵² *Ibid.*, June 18, 1878, 4.

⁵³ *Ibid.*, December 27, 1879, 1.

⁵⁴ *Ibid.*, December 31, 1879, 1.

⁵⁵ *Ibid.*, December 1, 1878, 8.

⁵⁶ *Ibid.*, December 4, 1878, 3.

⁵⁷ *Ibid.*, December 7, 1878, 1.

⁵⁸ *Ibid.*, 4.

peculiar and evasive opinion rendered by Attorney General Devens when Postmaster General Key opened upon the lottery last spring, has laid the case before him, and asks a special decision. It will be remembered that Howard was in Washington pending the last decision of the Attorney General, and was said to have "fixed things" before that document was given to the press. . . . It would be the correct thing now for Howard to return to Washington and give the Attorney General the benefit of his luminous legal mind. This would enable the official to reach a speedy decision of a question in which the public is largely interested.

Day after day the *Democrat* hammered away to get the Legislature to call a constitutional convention and to repeal the Lottery Act.

CHAPTER V

GENERAL ASSEMBLY REPEALS LOTTERY CHARTER

When Representative Louis Arnauld of the Fifth Ward of New Orleans introduced a bill early in January to repeal the charter of the Louisiana State Lottery Company, the *Democrat* naturally approved, saying, "This is a step of the greatest importance to the city and State, and Mr. Arnauld will have the warmest and most cordial support of the *Democrat* in his move to destroy a huge monopoly and an obnoxious influence in our politics."¹

At that time a Mr. Agusti was in jail on a charge of selling lottery tickets in violation of Act No. 9 of 1874 which gave sweeping powers to courts in sentencing offenders. The *Democrat* observed, "The Lottery Company seems to choose those periods when the Legislature is in session to enforce act No. 9 and 1874, as if to show its contempt for that body, and to impress the public with the belief that the representatives of Louisiana dare not interfere with it even for the purpose of protecting the personal liberties of her citizens."² The *Democrat* always took advantage of an opportunity to sow the seeds of hatred and contempt of the Lottery interests and so it was natural for it to accuse the company of having contempt for the Legislature.

¹ *Democrat*, January 8, 1879, 6.

² *Idem*.

When the substituted bill to repeal Acts Nos. 9 and 10 as well as the chartering act was reported out of the Judiciary Committee,³ the *Democrat* warned:⁴

If the Legislature fails to repeal the charter of the Lottery Company, that institution will go into the canvass of this city to control the election of delegates to the convention in its own interest and in that of other rings and monopolies, which will naturally ally themselves with it; and many thousands of dollars will be spent here to elect delegates to the convention who will do their best to defeat the great reform measures for which the convention has been called.

When the Lottery repeal measure was up for consideration, Representative Warmoth, who was Governor when the chartering act was passed, declared he had never owned stock in the Company but wished that he had, as it paid good dividends. Warmoth said that most of the opposition had been based on moral reasons and referred to the *Democrat* as a religious journal. The *Democrat* quoted him indirectly as saying:⁵

Why do not gentlemen abandon the moral feature and come forward in a manly way and declare that they oppose Howard and his Lottery because of its interference in politics; because it opposed certain political and commercial interests. That would be a tenable and proper ground of opposition.

In his speech, Warmoth admitted, "Howard did interfere in politics, and he always operated with the strongest side." The other speeches were printed together on inside pages of the *Democrat*, but Warmoth's address was displayed on the front page. The *Democrat* was highly elated at the carpetbag Governor's confession as to the power of the Lottery.

Editorially the *Democrat* said:⁶

The remarks of ex-Gov. Warmoth favoring the Lottery Company, really furnished the most powerful of all arguments why the Lottery should be destroyed. The *Democrat*, while deprecating the immoral tendency of the lottery, has not based upon that feature its strongest opposition to the company and practices. For months and years we have labored to show that the Lottery Company was a potent

³ *Ibid.*, January 17, 1879, 1.

⁴ *Ibid.*, 4.

⁵ *Ibid.*, January 19, 1879, 1.

⁶ *Ibid.*, 8.

factor in State and city politics; that it debauched public as well as private morals, and that it was a powerful engine against the welfare of the people, inasmuch as it corrupted public sentiment, traded in public officers, and controlled public interests to its advantages. Ex-Gov. Warmoth sustains this view of the case. If any man in Louisiana is informed of the connection of the Lottery Company with the politics of the State, he is the man. He admits that it is a mighty force in that determination of political questions. . . . It (the *Democrat*) recognized the fact that no party could remain pure which harbored this corrupting element, and no measure for the public good was safe as long as it was hostile to such measures. This view is now sustained by the man under whose administration the Lottery Company started into life.

Warmoth knows what he says when he talks about the interference of the Lottery in State and city politics, and pronounces it a powerful engine. His testimony is particularly valuable at this time, as it will go to the Senate with the bill, backed by the votes of three-fourths of the house.

The vote in the House was 66 to 19 and the measure went to the Senate for approval.

The *Democrat* urged quick Senate action by passing the bill to a second reading as it said the senators had had sufficient opportunities to become familiar with the measure.⁷

The *Democrat* pointed to the fact that the Lottery "contributed in every canvass from 1868 to 1878, to the Radical campaign fund. . . . There has never been a Radical judge or recorder in New Orleans who has not been the subservient tool of the Lottery managers. They owned the majority of the late Supreme Court, and the local United States judiciary have not escaped their contaminating influence. . . ."⁸

As a rule the Lottery did not go to the trouble to answer charges made against it. It preferred to rely on that principle of public opinion known as silence. But the Lottery was getting the worst end of the fight so it began to run "cards" in the *Picayune*, *Times* and *Item*⁹ while the repeal measure was in the Senate. The Lottery was making a strong bid to stave off repeal which threatened the Company.

⁷ *Ibid.*, January 20, 1879, 2.

⁸ *Ibid.*, January 17, 1879, 4.

⁹ *Houma Courier*, quoted in the *Democrat*, February 3, 1879, 1.

The Lottery card admitted "political intermeddling" on two occasions. The first was in 1872 to elect a fusion ticket and the second "was in 1877 to help the peaceful installation of the Nicholls government, and bring peace, order and honesty to our disturbed State and City."¹⁰ The Lottery did not point to its act as a clever and timely political move but attempted to cloak it in a robe of "desire and interest, in the installation of a government of our own people, and the restoration of law, order and business, and by the solicitation of those high in authority, to whom it was our pride, our gratification and our interest to render very important and effective service, in breaking up and peacefully dispersing the Packard government and absorbing his pretended Legislature in that of Gov. Nicholls. These facts are well known to the leading gentlemen of that party. . . . They were well known to the proprietors of the *Democrat*, who were the first to rush forward to seize their share of the spoils of this victory."¹¹

The *Democrat* denied it knew the details "of the caucus, or the purposes and measures of the parties who were carrying on the negotiations with the Packard people. We were opposed to the policy adopted, and hence were never in the confidence" of leaders.¹² It said it understood that some of the Packard men who held offices to which they were never elected were purchased by Lottery money to desert the St. Louis Hotel Legislature. The *Democrat* also denied it had preyed upon any spoils, for it said in "1868, in 1870, and 1872, and 1874, there was little in the advocacy of the Democratic cause to promise those who upheld it, either spoils or rewards." It ended its ringing editorial in a fighting mood:

. . . If the Lottery now coils in the Democratic nest, it found its way there as the serpent creeps through slime and sinuous paths up to the eagle's nest. But the proud bird will not mate with creeping things, and with beak and talon he rends the reptile and dashes it back into the depths below.

We are not yet through with the Lottery Cards.

The *Democrat* pointed to Warmoth's statement as proof that the Lottery interfered in politics on more than two occasions. It said Warmoth's "reply, broadly and unequivocally declared in the Louisiana House of Representatives, three days ago, that the

¹⁰ *Democrat*, January 21, 1879, 2.

¹¹ *Idem*.

¹² *Idem*.

Lottery concern had been a source of large revenue to the Radical party, and that in his day and in Kellogg's the Radical leaders freely milked this willing cow. We presume that no one will doubt Warmoth's knowledge of all the corrupt or willing sources from which he and the managers of his party obtained their campaign funds. . . ."¹³

The *Democrat* pointed to one specific instance when the Lottery had used its influence to have a Radical seated over a Democrat and mentioned another. It further stated, "It is also notorious that the solid Radical vote in the last House belonged to the lottery people, and was used by them solidly throughout the session in favor of such measures as the Lottery favored, and solidly against such as it opposed."¹⁴

Answering the Lottery charge, "Professing at times an invincible opposition to all monopolies, it (the *Democrat*) has passed over all other monopolies except ourselves," the *Democrat* pointed to its files as evidence that it had attacked such monopolies as "The Slaughterhouse, the Gaslight Company, the Sugar Shed Company and all others."¹⁵ It promised to attack them again, saying it had centered its fight on the Louisiana State Lottery Company because it was the "one we regard as the most pernicious."¹⁶

The *Democrat* commented editorially that for three years, month after month it had "attacked this monopoly without evoking a single public response from its managers in its defense. Born in bribery, its conductors believed more in the power of money to buy up courts and legislatures and to control primaries and conventions than they did in the honesty and patriotism of the people; hence, they treated our attacks with silence, if not with contempt while they poured out their corruption fund in all directions where men were to be brought or controlled."¹⁷ The *Democrat* recalled that three times a bill to repeal the charter passed the House of Representatives and each time the measure was smothered in the Senate. Further it said:¹⁸

Recorders and judges have sustained the so-called rights of the company, and sentenced citizens to degrading punish-

¹³ *Ibid.*, January 22, 1879, 6.

¹⁴ *Idem.*

¹⁵ *Idem.*

¹⁶ *Idem.*

¹⁷ *Idem.*

¹⁸ *Idem.*

ment for trespassing upon its sacred privileges. Inflamed with conceit and filled with confidence by long success, the Lottery disdained to enter the field of discussion or to attempt to protect itself by any other means than bribery.

Thus it is seen that the *Democrat* attributed the Lottery's silence in the past to the fact it fought public opinion with bribes. However, as the *Democrat* and the country press mobilized opinion, the *Democrat* triumphantly observed:¹⁹

But it has at length discovered that there is power in society that cannot be bribed; it has discovered that public opinion, organized and intelligently guided, is as irresistible as the tempest or the earthquake, and that before its sweep lobbyists, bribers and henchmen are but as chaff in the whirl of the winds. . . . The press has spoken freely and fully. . . . The present Legislature represents the organized opinion against the Lottery, and in its moment of terror the institution for the first time rushes into print and wildly seeks to stem the tide setting against it by nearly a column of vulgar abuse of the *Democrat*, and a mass of falsehoods as patent as they are shameless and brazen.

The lottery card attempted to discount the *Democrat's* motives in the long fight against it. The card said:²⁰

It has pleased the New Orleans *Democrat*, for some time past, to wage against this company a relentless war of vituperation, abuse and slander. The motive of these assaults is too apparent to be especially indicated. Political sensationalism, or some personal grudge and animosity, and no advocacy of any principle or hostility to any rights we have claimed, or any acts we have done, have impelled these attacks.

The *Democrat* said its fight was not personal, for it did not know the Lottery officials when it opened the war, and it pointed to the loss of twenty or twenty-five thousand dollars in business and in state warrants and threat of \$50,000 in libel suits as evidence that it was not sensationalism that prompted its opposition. It said:²¹

The proprietors of the *Democrat* must be regarded as a sorry set of fools by any intelligent man who believes that, for mere political sensationalism, they have made this war

¹⁹ *Idem.*

²⁰ *Ibid.*, January 23, 1879, 4.

²¹ *Idem.*

upon the Lottery Company through which they have sacrificed twenty or twenty-five thousand dollars worth legitimate business in three years, and involved themselves in little less than financial ruin by subjecting themselves to libel suits to the amount of \$50,000, and loss of \$42,000 in State warrants, enjoined in a malicious suit, in a corrupt and subservient court, by a vile tool and henchman of the Lottery Company. Sensationalism may be precious to a newspaper, but sensible newspapermen will not court it at such cost as the Louisiana State Lottery has inflicted through one of its courts, upon the *Democrat*.

The *Democrat* gave a number of reasons for opposing the Lottery:²²

The motive which prompted our crusade against the Lottery is broader and better than those the Company insinuates we acted upon. We undertook to destroy that demoralizing influence in our social system and that corrupting power in our politics for the same reason that has prompted most enlightened nations to prohibit lotteries within their jurisdiction; for the same reason that the legislature of nearly every State in the Union has forbidden the sale of lottery tickets within its borders; for the same reason that has prompted legislatures all over America to set the police, sheriffs and the constables to hunt down, prosecute and imprison as public malefactors and debauchers of public morals the vendors of lottery tickets; for the same reason which induced the *Philadelphia Times*, the *New York Times* and hundreds of other journals throughout the Northern and Western States to join in a crusade against the Louisiana and the Kentucky lotteries; for the same reason which led the police authorities of New York, Louisville and Cincinnati to recently raid the dens established by the Louisiana State Lottery Company in those cities, and imprison their keepers as common felons; for the same reason that led Congress to provide by a special act that neither lottery tickets nor circulars should be circulated through the United States mails, thus placing such tickets and circulars on a level with indecent publications, calculated to debauch society; for the reason that it is a recognized fact throughout the Christian world that a great lottery concern, such as the one which exists in this State, is simply a common gambling school in which men, women and children are educated for the faro bank and roulette table; for the reason that it develops, cultivates and excites to the highest pitch the gambling instinct, and hence in the course of time completely demoralizes society as far as its influences reach.

²² *Idem*.

The *Democrat*, in an ironical tone, said, "The literature of the Lottery Company is rapidly accumulating, and if that institution continues its series of cards, it will soon be able to issue a handsome volume, in which the high morality of lottery gambling will be expounded, and the necessity of such corporations to the good government of States set forth. The volume will be filled with a pathos, too, which may move to tears."²³

Frequently the *Democrat* editorials showed legal training. Like a lawyer arguing before a bar of justice, the *Democrat* argued, pleaded, appealed—sometimes to emotions and sometimes to intellect—before the bar of public opinion. The smallest bit of evidence was not too small for it to treat in detail. Naturally, the question of repealing the Lottery charter involved matters of law. But the *Democrat* was not perturbed by such entanglements and it readily and willingly became the public lawyer. Answering the "cry of 'vested rights,'" the *Democrat* quoted sections one and two of article 447 of the Civil Code which set forth the law by which "A Corporation legally established may be absolved:"²⁴

"1. By an act of the Legislature, if they deem it necessary or convenient to the public interest; *provided* individuals reimbursed for advances made.

"2. By the forfeiture of their charter, when the corporation abuses its privileges or refuses to accomplish the conditions on which such privileges were granted, in which case the corporation becomes extinct by the effect of the violation of the conditions of the act of incorporation."

... It has grossly violated its charter. . . . But even when a corporation has not violated its charter, the latter may and should be forfeited when the Legislature deems it necessary or "convenient to the public interest." Is there any one who denies the repeal of the Lottery Company's charter is for the public good?

As for reimbursing individuals for advances made, the *Democrat* dismissed that as a small trifle. "All that is needed by the Lottery to carry on its business are two glass wheels and some printed tickets. The repeal of the Lottery charter will damage it just the value of these articles—say \$500."²⁵ It said

²³ *Ibid.*, January 26, 1879, 6.

²⁴ *Ibid.*, January 25, 1879, 4

²⁵ *Idem.*

the state could buy those "vested rights" for that sum and the "insignificant sum would be gladly contributed by the grateful people."

The *Democrat* urged early Senate action and lamented that the bill was referred to the Committee on the Judiciary. It said, "The only real effect of the reference is to cause delay. . . . the delay of two or three days may be fatal to the bill. . . . There is really no legal question involved that the committee should consider. The Lottery, it is understood, has already determined to test its legal rights in the courts if the bill should become a law."²⁶

Because of the delay in the judiciary committee, rumors began to circulate about changes in votes. The *Democrat* saw that it was the psychological moment to reprint interviews of October 24, 1878, so that "the public may know how the majority of the New Orleans Senators felt upon the subject of the Lottery in October last."²⁷

Because the Lottery measure went through the House with such little opposition, rumors went about that the Senate would kill the bill. The *Democrat* took notice of the bribery rumors when the *Morning Star and Catholic Messenger* mentioned the rumors and pointed out, "A Senate is a much smaller body than a House of Representatives, and not nearly so many votes are required in it as in the other chamber to insure a desired action or non-action."²⁸

The *Democrat* asserted that there was "no truth in the rumor," saying such defamed "one of the purest bodies ever assembled in a Senate chamber in Louisiana." "There is not the slightest danger that the Lottery Company can buy the Senate from its deliberate purpose of voting it down."²⁹ The *Democrat* said the Judiciary Committee would report that day, which it did.³⁰

The *Democrat* published in full the majority and minority reports, the former was highly legal in its treatment and extended over two and one-fourth columns while the latter report of the four dissenting members consisted of only a paragraph giving no arguments other than it was unconstitutional and against the

²⁶ *Ibid.*, January 24, 1879, 6.

²⁷ *Ibid.*, January 27, 1879, 4.

²⁸ *Idem.*

²⁹ *Idem.*

³⁰ *Idem.*

"general welfare" and "public policy."³¹ The *Democrat* termed the majority report "able and elaborate."³² At this time it took notice of the *Times* and *Picayune* statements that the Legislature did not represent the property and business interests of the state.³³ The *Democrat* took exception declaring, "When the Legislature which passed the convention bill shall repeal the charter of the Louisiana Lottery Company it will be the duty of the free people of this State to subscribe a fund to rear a monument in its honor in one of the public squares of this city."³⁴

Shortly before the bill came up for Senate action the *Democrat* reported two "of the most disgraceful affairs that have ever taken place in Louisiana."³⁵ It said "a well known partisan and agent of the Lottery approached a gentleman who is a prominent Democrat and told him quite mysteriously that he had one thousand dollars to pay any Senator who was supporting a certain candidate for the United States Senate who would absent himself from his seat. . . ."³⁶ The Senator, with a friend, kept an appointment which revealed "that the real object was not to get a Senator away in the interest of any candidate for the United States, but to buy some member of the upper house who favors the repeal bill to absent himself from his seat when the bill comes up today."³⁷

The *Democrat* also related an incident of two days previous when Senator P. A. Ducros, Jr., and F. C. Zacharie were preparing the majority report. Ex-recorder Arthur Gastinel, "a well known partisan of the Lottery Company," offered one thousand dollars to Senator Ducros to defend a Dr. Latham at Bay St. Louis, Miss., on a murder charge. Mr. Ducros, on explaining he was no criminal lawyer, was told the suit would become one for damages. Mr. Gastinel was reported to have then said, "Then you must meet me at the train tomorrow morning; we must leave right away, as the case is fixed for trial. I'll have a basket of good wine aboard, and we will have a good time." Zacharie noticed the time fell in the period the Lottery bill was to be up for consideration, so the appointment was not kept.

³¹ *Ibid.*, January 28, 1879, 1.

³² *Ibid.*, 4.

³³ *Idem.*

³⁴ *Idem.*

³⁵ *Ibid.*, January 29, 1879, 6.

³⁶ *Idem.*

³⁷ *Idem.*

Gastinel explained in the *Times* that he was attempting to obtain the services of an eminent civil lawyer for his client. The *Democrat* said that unfortunately the case did not stand alone. It said that it was Gastinel who tried to decoy two Senators in the interest of the candidacy of Gov. Nicholls for Senator for three thousand dollars.³⁸

The debates in the Senate were bitter and extremely passionate. One of the most feeling and dramatic speeches was delivered by Senator Zacharie who opened the debate in favor of the repeal bill. He argued it from the legal standpoint, quoting copiously from decisions, the *Democrat* reported. He launched into a denouncement, related pathetic incidents and ended with a dramatic appeal based on "Lead us not into temptation," declaring:³⁹

Wipe out every page of the Bible from Genesis to Revelations, and leaves us that; but the creeds, the books and dogmas of the schoolmen and theologians from the first century until now, and leave us the Master's appeal to the Father, and we have a religion perfect and complete—sublimar than any Confucius ever dreamed of, than Mahomet ever invented, or Brahma ever announced. And sir, to my mind, the most human part of that grand production is that humble confession of weakness and that tearful entreaty of poor mortality:

"LEAD US NOT INTO TEMPTATION."

Still addressing the Senate president, with all his fervor, he cried out:

Sir, from beggared homes, from starving children and famished wives, from souls staggering dizzy on the edge of crime, from our youths and growing manhood, the future hope of our State—comes a mute appeal to the strong hands of the lawmaker. "Lead us not into temptation." For one, I propose to harken to it, and to answer it by my vote on this bill. For one, I propose to apply the excise knife of law to cut out this malignant cancer which is eating out the very vitals of the morals of the people.

On being put to a vote the bill passed 19 to 17. Lieutenant-Governor Wiltz was in the chair. The *Democrat*, in an editorial, printed the votes of members so "their constituents and the general public may know exactly how the Senators voted." All Republicans and seven Democratic senators opposed the measure.

³⁸ *Ibid.*, January 30, 1879, 4.

³⁹ *Ibid.*, 1.

Since the Senate-amended measure provided for it going into effect April 1 instead of immediately after passage, the bill was sent back to the House for concurrence. Under a suspension of rules, the House concurred 73 to 15. Warmoth was among the Republicans in the House voting to concur.

A special dispatch from Washington stated,⁴⁰ "The downfall of the Lottery is quite extensively commented on by the Northern press. Several prominent journals compared the *Democrat's* victory with the *New York Times'* triumph over the Tweed ring in 1871. One of the papers here remarked editorially that it is the most remarkable exhibition of the power of journalism that has been seen in a long time. The situation seems to be fully understood by the Northern press, and the *Democrat* has acquired national prestige by the success."

The *Marksville Bulletin* was high in its praise of the *Democrat*. It said, "This monstrous monopoly could not withstand the shock of public sentiment which was leveled against it. The New Orleans *Democrat* had played a brilliant and a patriotic part in this spirited fight, and in the future the people will recognize properly its great work and splendid zeal."⁴¹

The only comment the *Times* made was, "As far as we can see at this writing, the session of 1879 has, to put it playfully, laid three eggs. It has plunged the State into the turmoil and agitation of three successive elections with all their attendant disturbances; it has abolished the Lottery; it has exonerated the State Printer."⁴²

The Governor did not sign the repeal measure immediately. In fact there was some uneasiness that he might not sign the measure. "The Real Estate and Taxpayers' Union" at a meeting February 10 adopted a resolution which read:⁴³

Resolved, That we hope the rumor that the Governor will not sign the Lottery bill is not true, and that we believe that his refusal to sign the bill repealing the Lottery act, at this time, would be a public calamity.

⁴⁰ *Ibid.*, February 2, 1879, 1.

⁴¹ *Marksville Bulletin* editorial, reprinted in the *Democrat*, February 13, 1879, 2.

⁴² *Times*, February 2, 1879, 2.

⁴³ *Democrat*, February 11, 1879, 1.

Naturally the *Democrat* received many inquiries as to whether or not the Governor would sign the measure. Editorially, it said it did not know the Governor's attitude,⁴⁴

but we are entirely satisfied that he will do what he deems best for the State.

In reply to several insinuations in letters received by us on this subject, that our silence indicates that the *Democrat* had abandoned the fight, we will say, that while we have not desired to harass the Governor, it is our purpose, in case the bill is not signed, to reopen the war on the Lottery in the convention.

Under terms of the constitution of 1868, the Governor could hold the bill for twelve months. By the middle of March, the *Democrat* began to be slightly alarmed over the Governor's delay in acting. It asked, "Is the Governor opposed to this repeal bill, or does he think that the Lottery Company, which controls in a great measure the politics of this city, should be sustained?"⁴⁵ The *Democrat* attacked the veto power of the Governor as "a villainous abuse fixed by the Radicals for partisan, speculative and corrupt purposes."⁴⁶

A week later the Governor signed the bill. The *Democrat* was pleased as it declared, "We do not believe that the courts of Louisiana nor those of the United States will take any such ground, and we are therefore certain that the Louisiana State Lottery is rapidly approaching its end."⁴⁷

The Louisiana Lottery Company applied to the Federal courts for an injunction against the repealing act. The *Democrat* said:⁴⁸

That it will be sustained and the injunction prayed for perpetuated, we assume at the outset. When we take into consideration the litigants, a rich and unscrupulous corporation, fighting for very existence, on one side and a mere nominal defendant on the other, State officials having no actual issue, any other hypothesis would be unreasonable, with such a judge as Billings occupying the bench of the court in which the proceedings will be passed upon. . . .

There must be a limit to the continued oppressions of the Federal courts, and if that limit has not been reached in this

⁴⁴ *Ibid.*, February 14, 1879, 4.

⁴⁵ *Ibid.*, March 20, 1879, 4.

⁴⁶ *Idem.*

⁴⁷ *Ibid.*, March 28, 1879, 4.

⁴⁸ *Ibid.*, April 4, 1879, 4.

instance, then the State may as well relinquish her autonomy and turn over the administration of her domestic affairs and the enforcement of her laws, civil and criminal, to the Federal judges and United States Marshals.

The *Democrat* did not hesitate to express its opinions about Judge Billings of the United States District Court. It said, "the Lottery Company owns Billings, body and boots, by right of purchase and that he will certainly obey implicitly the instructions of the company and its attorneys in all matters which come before him, and which interest that institution."⁴⁹

The case of Louisiana State Lottery vs. John Fitzpatrick *et als.* came up for hearing on April 8 with Attorney-General H. N. Ogden representing the defendants. Thomas J. Semmes opened the case and Judge John A. Campbell closed arguments of state's rights for the plaintiffs.⁵⁰

The Lottery interests were successful in having the Company's rights protected by including provision for it in the Constitution of 1879. Therefore, it was safe from legislative repeal until its charter expired on January 1, 1894.

CHAPTER VI

CONSTITUTIONAL CONVENTION CALLED

After the overthrow of the carpetbaggers, many persons began to urge the calling of a constitutional convention which would change the organic law of the state. The onetime oppressed citizens desired to make a complete change in their government so as to throw off the stigma of the military and Reconstruction eras. The *Democrat* took the lead in the crusade for a new constitution.

The *Democrat* in July, 1878, quoted the *Marksville Bulletin* as listing among the supporters of the constitutional movement, the New Orleans *Catholic Messenger*, Pointe Coupée *Pelican*, Lake Charles *Echo*, Abbeville *Meridional*, Marksville *Villager*, St. Bernard *Eagle*, and the Washington *News*.

⁴⁹ *Ibid.*, April 5, 1879, 4.

⁵⁰ *Ibid.*, April 8, 1879, 1; April 9, 1879, 8.

It further quoted the *Bulletin* as saying:¹

The truth is, as stated by the *Democrat*, the entire press of the State are almost a unit on the side of the convention . . . thirty-seven of the leading papers of the State are strong conventionalists. The *Times* is about the only paper that has really shown any opposition to a convention; some few other papers are lukewarm in the movement; some others differ as to the proper time of meeting, none are really opposed to the almost unanimous demand of the people for a new constitution for Louisiana.

The *Democrat* chided the *Picayune*, "That fearless and independent journal," of becoming "disgusted with the present constitution" when it "heard the news from the country parishes."² The convention proponent hinted that the *Picayune* was influenced in its action of first favoring a new constitution and then changing when the movement threatened to include the wiping out of all monopolies which included the lottery. It asked:³

But does the *Picayune* understand that a constitutional convention means down with monopolies? It did not, we assume, understand this when it followed the *Democrat* into the advocacy of a convention early in the summer of 1877. In February last, when it flopped over to the anti-conventionists, it understood the fact very well. Was its tenderness for the lottery that evoked its wild shrieks at that time for the adoption of the amendments? Does it understand that the movement which . . . it has joined, means the fight of the people against monopolies, for retrenchment, reform and cheap government?

During the yellow fever plague in the fall of 1878, the Howard Association performed many services to humanity. Of course there was some confusion about the name "Howard." The *Democrat* quoted the *Washington Post* which answered a question as to the founder, "'No; Gen. Howard was not the founder of the Howard Association, which takes care of the poor negroes who have the yellow fever. He founded the society which took care of the poor negroes' money'."⁴

The *Democrat* never missed an opportunity to make light of the attitude of the *Picayune* and the *Times* on the Lottery. During

¹ *Democrat*, July 3, 1878, 4.

² *Ibid.*, July 27, 1878, 4.

³ *Idem.*

⁴ *Washington Post*, quoted in the *Democrat*, September 3, 1878, 3.

the yellow fever fight, the *Picayune* rushed to press with an incomplete health report which said 78 persons had died when there had been 88. The *Times* called the story a fraud. To which the *Democrat* lightly suggested:⁵

May we suggest to our able neighbors that "a fraud" is a harsh term for a journal which loves the Louisiana Lottery Company, Auditorial solicitations, etc., to apply to a contemporary which has been sweet on Kellogg and flopped four or five times on the constitutional convention for the purpose of catching the popular breeze. Our two esteemed contemporaries are so similar in their moral and political perceptions and in their financial management. . . . Honors are even; let the quarrel stop. . . .

With the coming of cooler months which meant the passing of the dreaded yellow fever that had harassed the stricken city, the *Democrat* renewed with increased vigor its campaign for a constitutional convention. While the plague was raging, political issues were forgotten as the city cared for its dying hundreds, as its frightened residents never knew when or whom it would strike next.

Election of delegates to the Orleans Democratic parish convention was held October 12, 1878. Before the election the *Democrat* warned it would not "support any man for office, though he be backed by a thousand conventions, who cannot show a clean record, or who is in any manner, shape or form connected with or in the interest of that sink of iniquity and corruption, the Louisiana Lottery Company."⁶ The day after the election when the results were still unknown, the *Democrat* lamented, "It is to be regretted that the elections had so much the appearance of being run exclusively by combinations of candidates. . . . It is charged, and there is very little doubt that the charge is true, that a great combination, including candidates for nearly every city and parish office and for the Legislature, was formed with the Louisiana Lottery Company and other rings to control the primaries and the convention."⁷ The *Democrat* denied that the Lottery had a right to exert an influence on the selection of Demo-

⁵ *Democrat*, September 4, 1878, 2.

⁶ *Ibid.*, October 9, 1878, 4.

⁷ *Ibid.*, October 13, 1878, 4.

cratic nominees because it "held that it has contributed to the success of the Democratic party."⁸ To that contention, the *Democrat* replied:⁹

From the hour that the Lottery sprang from the womb of the "snaky sorceress" that kept the fatal key which excluded right, and honesty, and justice from our legislative halls, to the hour when it became apparent that Radicalism was doomed, the Lottery stood by its mother. Then, however, it became the loudest champion of the Nicholls government, and all its fresh dogs howled and barked in noisy gladness at the approach of the new master; but, like the foul brood which unceasingly barked around the sorceress at the gate of hell, yet

"Would creep,

"If aught distrub'd their noise, back into her womb.

"And kennel there."

The *Democrat* said that when it first attacked the Lottery it "crept back into the bowels of the Radical party."¹⁰

When charged with weakening the Democratic party and periling its supremacy, the *Democrat* answered, "We are doing our best to keep the Democratic party from being handed over, body and soul, to rings, corporations and corruptionists. If we fail to do that, the sooner the party is disbanded the better; if we succeed, we will have done the party an incalculable good, and its supremacy will be established." It pledged its support to party candidates if "men honest and true."¹¹ The *Democrat* pleaded that "Louisiana and New Orleans need wise, honest, and economical government; prostrated by war; ravaged and desolated by carpet-bag and military governments, and now prostrated and well-nigh ruined by pestilence, they need their best, ablest and most patriotic men in their public councils."¹²

Asserting that "Popular rumor has connected the names of three-fourths of the candidates for the Legislature and some of the administrators with the most oppressive and offensive of the monopolies," the *Democrat* declared, "true or false, the ticket can only be relieved of this odious suspicion by a candid and prompt

⁸ *Idem.*

⁹ *Idem.*

¹⁰ *Idem.*

¹¹ *Ibid.*, October 15, 1878, 4.

¹² *Idem.*

declaration of principles by the candidates, either in speeches to their constituents or in letters or addresses through the public journals."¹³

The *Democrat* charged that the Odd Fellows' Hall Convention which nominated candidates for the Legislature from New Orleans gave out "an address which evaded any specific denunciation or arraignment of what we believe to be one of the greatest evils and burdens of the State—the Louisiana Lottery Company."¹⁴ The paper was unsuccessful, it said in its effort "to elicit from these candidates an expression of view on this question." "Determined to do all in our power to obtain for the voter of the Democratic party an expression of the views of the candidates . . . we sent representatives of the *Democrat* to interview the nominees. The interviews will be found in another column. Several of the candidates expressed an unwillingness and others a determination not to answer any question relative to the lottery, on the ground that, if they expressed an opinion adverse to that interest, Mr. Howard would send his retainers and his money into their wards or districts and defeat them. . . ."¹⁵

The *Democrat* carried the interviews in the last two columns on the right side of page one. The story said the interviews were "upon questions vital to the interests of the State and city and to the Democratic voters not being expected to go to the polls blindfolded." The account said the task was not an easy one.¹⁶

The *Democrat* reported:¹⁷

. . . many of the candidates, though privately and confidentially answering the questions in a satisfactory way, begged that their declarations and opinions should not be published, as they feared that, if they declared themselves categorically against the monopolies, and particularly the powerful Lottery Company combination, their election would be jeopardized, for the money of the Lottery Company would be freely used against them and they did not know whether they could stand the brunt. Nevertheless the reporter obtained from a number direct answers, which are quite satisfactory, while others evaded questions or absolutely refused to answer them.

¹³ *Ibid.*, October 19, 1878, 4.

¹⁴ *Ibid.*, October 24, 1878, 4.

¹⁵ *Idem.*

¹⁶ *Ibid.*, 1

¹⁷ *Idem.*

By November the *Democrat* was highly pleased with the election results. It declared the issues were the constitutional convention and the destruction of the Louisiana State Lottery Company. "When these positions were first advanced a powerful opposition was encountered. Single handed the *Democrat* made the fight in the city of New Orleans."¹⁸

The *Democrat* said:¹⁹

From its first number this paper has been the uncompromising opponent of the Lottery Company. It was looked upon as a dangerous enemy of the State of Louisiana and of the Democratic party, and it became the purpose of the *Democrat* to destroy it. . . . Three-fourths of the present delegation from the city is pledged to vote the lottery out of existence, and almost every Democratic member of the new Legislature from the country is bitterly hostile to it. Nothing will prevent its final and complete overthrow the coming winter unless the members of the Legislature prove to be unworthy of the further confidence of their constituents, are recreant to every principle of honor and plighted faith, and allow themselves to be bought by the lottery's money. . . . The fate of the lottery is sealed, and the *Democrat* congratulates its country allies, whose influence in the canvass was so potent. . . .

The *Democrat* was optimistic and pleased with the long campaign it had carried on and openly in defiance of the Lottery efforts, predicted it would be wiped out. It pointed to the fact that the Lottery had lost prestige as "a number of the candidates were supposed to be lottery men, *not a single one dared to declare himself in its favor*. A few were noncommittal; but the large majority promptly and in the most emphatic terms, announced that they should vote against all monopolies in the next legislature, *and especially against the Louisiana Lottery Company*."²⁰

The *Democrat* said the New Iberia "*Sugar Bowl* makes a safe prediction when it says that the lottery must go down. Besides that staunch and influential journal itself, there are able and influential papers in every section of the State who have joined us in this fight, and so strong is the feeling against the lottery in the country that every man who comes out as an independent candidate in the parishes announces as his strongest card, opposition to the 'lottery curse!' The anti-lottery party, in the country is a powerful movement and it is growing every day."²¹

¹⁸ *Ibid.*, November 10, 1878, 4.

¹⁹ *Idem.*

²⁰ *Idem.*

The *Democrat* quoted the *Sugar Bowl* as saying:²²

We were the first journalism in the State who raised our voices against the shameless and demoralizing institution, the Louisiana State Lottery, while all the city journals were receiving its "hush" money and advertised it. Upon the birth of that true exponent of the people's wishes, the New Orleans *Democrat*, it bravely attacked the enemy in its stronghold, and has made war upon it without cessation.

To skeptics who pointed to the Lottery's business and "slush" fund, the *Democrat* answered that overthrow was possible. It said:²³

A strong effort is being made to overthrow this overgrown and grasping corporation, whose annual business amounts to \$100,000,000, with fair prospects of success. And yet there are people who affect to believe that, by reason of its money and power and corrupting influence, the Louisiana Lottery cannot be broken up. If a huge concern such as the New York and Pennsylvania company can be destroyed, who will say that a Legislature in Louisiana can be induced to thwart the will of the people by the corrupt company at whose head is Charles T. Howard?

The *Democrat* was always forcing the issues of the day. Because no subject had "attracted more attention within the last year than that of the holding of the constitutional convention to remedy the evils brought upon our people by the provisions of the one under which we now live," it sent out reporters to interview legislators "on that subject as well as on the state finances."²⁴

A regular feature of the *Democrat* was the reprints from newspapers throughout the state under the heading of "Country Press." By studying the comments in the papers throughout the state the editors were able to sense the trends in public opinion.

Of course most of the reprints touched on vital issues of the day. Several of them follow:

Lincoln *Sentinel*:²⁵

. . . it is generally suggested that the calling of a constitutional convention should be the only business of the session, and that as soon as this can be done a constitution which is to be the basis of a real, substantial and lasting reforms.

²¹ *Ibid.*, November 9, 1878, 4.

²² *Idem.*

²³ *Ibid.*, November 27, 1878, 4.

²⁴ *Ibid.*, January 7, 1879, 1.

²⁵ *Ibid.*, January 2, 1879, 2.

We are not disposed to quarrel with our exchanges on this point, but how about the State Lottery? Are we to wait for the constitutional convention to blot out this iniquity, or shall the present Legislature repeal the laws creating and sustaining it at once? We now have a sufficient majority in both houses to insure the passage of the bill without delay.

Claiborne Guardian:²⁶

. . . Those who oppose the call will be found at the session of the Legislature arranged in full force and well supplied with the sinews for an active war against the wishes of the people. In the front rank will be found the Lottery Company, the richest corporation in the State. The minions of this company will spare no means to defeat the will of the voters. Bondholders and capitalists and the Radical party will bring up the rear of the force.

St. Mary Enterprise:²⁷

We need no more politicians in the convention—we need no monopolists, no henchmen of monopolies there—but statesmen, broadminded, large-hearted, high-toned statesmen, are the men who should be chosen to make for Louisiana an organic law such as she needs.

Point Coupée Pelican:²⁸

Let the constitution take from the Legislature all power to create monopolies. Such charters are always dangerous, and create a privileged class among us—they tax the many for the benefit of the few, and must result in the establishment of an aristocracy.

While the bill to call a constitutional convention was being passed by the Legislature, the *Democrat* followed the measure closely. The *Democrat* observed:²⁹

The New Orleans *Times* has for two or three weeks been engaged in the work of opposing the passage of a bill by the present Legislature to call a constitutional convention. For the past three days the *Picayune* has feebly followed the course of the *Times*. . . . Such twaddle as this is inspired by certain ring interests in the city, too well known to require designation at this time. . . . The *Democrat* desires to warn the business interests of the city of New Orleans, as well as the rings and monopolies, that any opposition to a convention would prove extremely damaging to the welfare of the city.

²⁶ *Idem*.

²⁷ *Ibid.*, January 22, 1878, 8.

²⁸ *Idem*.

²⁹ *Ibid.*, January 12, 1879, 8.

The *Picayune* would sometimes favor the convention and then it would oppose it. Once the *Democrat* declared, "Five separate and distinct times has the *Pic.* changed its attitude upon this one question."³⁰ At first the many business interests in New Orleans did not oppose a convention, but talk became rather general about repudiation of some of the state debts and bonds. The *Times* and the *Picayune* were sensitive to tremors in industry and commerce, and that no doubt partly accounted for the reactions in addition to the move to repeal the Lottery laws.

In the middle of January, the *Times* began to agitate for adjournment. It attributed the constitutional movement to public opinion and lamented:³¹

For some weeks past we have been told that an overwhelming majority of the Legislature came to New Orleans pledged to call a Constitutional Convention and to adjourn immediately. We doubted the fact, we were sure that the idea was unwise in character and vicious in tendency, and we opposed the plan of calling a Convention with all the ability we could command. We have failed. Let that be confessed at the outset. The overwhelming majority in the House—and it will be the same in the Senate—has pronounced in favor of a Convention, and the Convention, with its attendant agitation and expense, is now an assured fact. We are to have a whole year of elections and campaigns and the taxpayers must dance to the music. All the regrets we may utter can be of no avail. When all is over; when we have before us the material for estimating what we have received and what has been its cost, then we can strike the balance in our account with this Legislature and write upon its tomb-stone the epitaph of popular opinion.

Governor Nicholls signed on January 23, House Hill No. 22 calling for a constitutional convention and providing an appropriation.³²

During March, the *Democrat* had continued to take an aggressive stand on issues to come up before the constitutional convention. It favored drastic measures in regard to the state debt. The *Times*, which with the *Picayune*, frequently were called the organ of the bankers and bondholders, ran *Democrat* editorials in parallel columns to show how that paper had changed on the consols.³³ The *Democrat* was quoted as saying on June 3,

³⁰ *Ibid.*, January 11, 1879, 4.

³¹ *Times*, January 14, 1879, 4.

³² *Democrat*, January 27, 1879, 2.

³³ *Times*, March 18, 1879, 4.

1877, that the consols were guaranteed because of a "constitutional contract which no legislature or future government can impair," while on March 1, 1879, the song was "It is a notorious fact that a large portion of the debt was created by fraud." It said, "the twelve million debt of Louisiana has no fixed value, no equilibrium, no worth as a permanent and solid investment." The *Democrat* explained that in 1877 "a new era, it was believed, had dawned upon the people of the State." The *Times* was opposed to the wave of repudiation that was sweeping the state, especially in the country parishes. Of course, New Orleans, the center of business in the state, the headquarters of bankers and bondholders, fought to curb repudiation moves. Answering the plea of the state's inability to pay, the *Times* struck back at the country parishes, pointing "to the flagrant and notorious under-assessment in the country parishes."³⁴

Though successful in getting the Legislature to revoke the Louisiana Lottery Company's charter and call a constitutional convention, the *Democrat* was experiencing serious financial difficulties in the State-printer fight. The *Democrat's* victories were to prove costly ones as the Lottery lashed back with vengeance.

CHAPTER VII

LOTTERY TRIUMPHS OVER DEMOCRAT

In return for the *Democrat's* part in the restoration of the Democratic Party to power, the paper was rewarded with state printing when Nicholls took office. However, the *Democrat* became independent because of a question of patronage. The gap was further widened when the paper crusaded for a constitutional convention that cut short Nicholl's term of office.¹

The *Democrat* in a column-and-a-half editorial stated that while the legislature was in session, agents of the Lottery had attempted to get the paper to accept patronage of the Company and cease its attacks. The *Democrat* said it had remained silent on allegations that the State Printer, Mr. Dupré, had overcharged for his services as it preferred to settle the matter in courts. It declared, "Forbearance has now ceased to be a virtue, and we propose, in this and subsequent articles, to expose the foul-

³⁴ *Ibid.*, March 16, 1879, 4.

¹ Hart, *loc. cit.*, VIII, 579.

mouthed scoundrels who, because we have denounced their rascalities and refused their support and business, have made this war of defamation upon the *Democrat*."²

The editorial explained that "one H. W. Green who had been foreman of the New Orleans *Republican*," threatened vengeance when dismissed by the *Democrat* and even offered to sell to the *City Item* "the information which he alleges would ruin the State printer." The *Item* declined and then Mr. Howard heard of his charges, so the *Democrat* related. Green went before the grand jury, "backing up his falsehoods by ingenuous figures and statements relative to the printing which we doubt if a single member of the grand jury comprehended," the *Democrat* opined.

The *Democrat* accused the Lottery of attempting to ruin the reputation of the proprietors and crippling the publication financially. It charged:³

. . . That rotten and corrupt concern has already instituted two suits against the *Democrat* for libel, each for \$25,000. In addition to this, the company had picked up some adventurer by the name of Benjamin, claiming, at the instigation of his masters, to be a citizen of England, and to have an interest in State warrants, who has applied to the United States Circuit court for an injunction to prevent the payment of \$40,000 of warrants held by the *Democrat* on the general fund. These warrants discredited and our cash money expended for the material and work conscientiously done and delivered to the State, necessarily the resources of the *Democrat* would be crippled and its credit damaged to such an extent that bankruptcy and the suspension of the paper would be the issue. This was the calculation of the Lottery Company, and their calculations were well made. . . .

The *Democrat* said that its credit was damaged but its "large general business and circulation" and "confidence of our employees" enabled it to continue operating. It said that on the "day when the crisis came upon us," Howard boasted he would have the sheriff in possession of the *Democrat* office in three days. Defiantly, the *Democrat* said, "The suits of the Lottery Company against us, aggregating ninety thousand dollars, are futile; the prosecution of the State printer, who is our associate, is what he and we desire."⁴

² *Democrat*, December 23, 1878, 6.

³ *Idem*.

⁴ *Idem*.

The *Democrat* said that one grand jury listened to "one-sided evidence" on matters which none of the members understood,⁵ and a second shifted the responsibility to the district attorney by stating it "was of the opinion that the State had been defrauded" and asked the district attorney "to file an information."⁶ The *Democrat* stated that "Perjured testimony of Howard's tools" had been published as paid communications in the *Times*, the *Picayune*, and the *Item*. It said that "disreputable journalists" printed the defamatory communications and withheld names of authors from the State Printer and his associates.⁷ The *Democrat* repeated its assertion that the Lottery interests were back of the grand jury moves.

The *Democrat* said that in ten articles over thirteen months it had asked for the indictment of Gen. Tom Anderson for taking from the Bayou Boeuf and Crocodile Navigation Company "over seventy thousand dollars."⁸ It also pointed out:⁹

On February 25, 1876, a special committee of the Legislature, composed of Democrats and Republicans, presented a report to the House of Representatives, and the people of Louisiana, charging and proving that Charles Clinton, now owner, conductor, and editor of the New Orleans *Times*, had mercilessly swindled the Charity Hospital out of over \$6,000—that he had plundered the destitute, sick and suffering men, women and children in that institution. . . . and the report never received the slightest attention from a grand jury or a court of the enlightened and Christian State of Louisiana. . . . If more illustrations are required, we are prepared to give them. Let them be demanded. . . .

It is interesting to note at this time that Clinton was counted in as Auditor on the Kellogg ticket in 1872.¹⁰ He resigned within less than a year from the end of his term and purchased the *Times*. The paper supported Nicholls in 1876.

Mr. Dupré, State Printer, who was also business manager of the *Democrat*, preferred charges against Green with the Typographical Union of New Orleans.¹¹ The Attorney General made a report on the State Printer. The statement included condensa-

⁵ *Ibid.*, December 28, 1878, 4.

⁶ *Ibid.*, 11.

⁷ *Ibid.*, December 31, 1878, 4.

⁸ *Ibid.*, December 28, 1878, 4.

⁹ *Idem.*

¹⁰ Hart, *loc. cit.*, VIII, 575.

¹¹ *Democrat*, January 5, 1879, 2.

tion of the Green allegations, the defense by W. R. Barrow, foreman of the *Democrat* job printing office, and the statement by an "umpire, Col. Gerard Stitch, the present foreman, as I am informed," the Attorney General said, "of the New Orleans *Daily Picayune*."¹² Stitch reported some inaccuracies and ended his report with the statement, "There is a great diversity of opinion among printers as to what constitutes price and a half matter." The *Democrat* pointed out that the state was undercharged \$92.13 and overcharged, according to the Stitch report, \$164.63, leaving a difference of \$72.50 instead of \$800 as charged by the grand jury.¹³

The Governor in his annual message stated that the Attorney General had advised him that the facts did not warrant criminal prosecution, that the umpire found "a larger amount claimed than in his (the umpire) opinion was due, there existed a difference of opinion among printers on the subject matter. He informs me that he intends testing this question judicially and that in the meantime the warrants will not be paid."¹⁴

The *Times* commented that since the Legislature favored economy, the State Printer's memorial for relief on his contract "must come with special and original interest, and the public are equally struck by the situation."¹⁵ The *Times* classified the State Printer in the category with monopolies and said it desired "to know whether it is proposed to pay the present State Printer ninety-five percent more than he had contracted for. . . . Forty-two thousand dollars of the people's money have been expended and the people are out that amount."¹⁶

The Legislature passed a resolution for a joint committee to investigate the accounts of the State Printer.¹⁷ When Green was called upon by Representative Hammond, chairman, to tell "who instigated you to make charges against the State Printer?" Green laconically replied, "I decline to answer." Dupré then asked, "Is it Charles T. Howard?" He answered, "None of your business."¹⁸ Dupré did bring out that Charles Luzenberg, an attorney for the Lottery firm, appeared for Green before the Attorney General. Green said he would give the name before the bar of the House. He was put in the custody of the sergeant-at-arms and brought

¹² *Idem*.

¹³ *Idem*.

¹⁴ *Ibid.*, January 8, 1879, 4.

¹⁵ *Times*, January 8, 1879, 4.

¹⁶ *Ibid.*, January 18, 1879, 4.

¹⁷ *Democrat*, January 19, 1879, 16.

¹⁸ *Idem*.

before the House but refused to reveal his instigator.¹⁹ After a long discussion, Green was released from custody. When the *Picayune* sided with Green at the legislative hearing as against the State Printer, the *Democrat* questioned "these motives."²⁰ Hammond reported to the committee that it was powerless to make witnesses answer questions in view of the action of the House.²¹ Finally the committee brought in a bill of relief for the printer, declaring "that the State of Louisiana, through its agents, the Printing Board, has not complied with the plain condition of the contract entered into with the said State Printer, to wit: *the strict cash basis*." It reported only \$1,900 paid in cash and that all the work had been ordered by "the Secretary of State, to execute said work." It discounted Green's testimony as compared to that of Stitch and J. S. Walter, "of the New Orleans *Picayune* office, a practical job printer of thirty years' experience." The committee recommended the passing of a bill of relief as "said amount of \$4,050 which amount is in excess of the appropriation made by the Legislature of 1878 for public printing." The committee report of nearly three columns was printed in full by the *Democrat*.²²

A Lottery card on the editorial page of the *Times* charged the Printing Committee was "packed."²³ The *Democrat* took the *Times* and the *Picayune* to task for not printing the Printing Committee report. It said, "These papers not only refused to print this report, they not only misrepresented it, but they also opened a war of abuse upon the gentlemen who composed the committee which presented the report. . . . But what is to be expected of a sheet like the New Orleans *Picayune*, which only exists today because it was a panderer to Kellogg in his day of power, or like the New Orleans *Times*," and the editorial repeated the fraud charges against Clinton.²⁴

When the Senate adopted a resolution declaring the office of State Printer vacant and giving the Governor authority to appoint another, the *Times* lamented that the House allowed it to remain "unnoticed throughout the closing hours of the session."²⁵

¹⁹ *Ibid.*, January 21, 1879, 2.

²⁰ *Ibid.*, January 22, 1879, 7.

²¹ *Ibid.*, January 21, 1879, 4.

²² *Ibid.*, January 26, 1879, 1.

²³ *Times*, January 28, 1879, 4.

²⁴ *Democrat*, January 29, 1879, 6.

²⁵ *Times*, February 4, 1879, 4.

On February 18, the third grand jury to investigate the State Printer indicted Dupré for perjury. The *Democrat* welcomed it, saying, "unpleasant as such things are, under the circumstances the State Printer is glad that the indictment has been found."²⁶ The *Times* reviewed the issue briefly, asserting that the legislative committee had not thrown any light on the question "in the true sense of the word, and the chief witness upon whom the Committee affected to base their report came out in a published card denying that he had ever seen any of the State printer's accounts or been examined touching them in any manner whatsoever."²⁷

Governor Nicholls appointed George Nicholson of the *Picayune* State Printer on March 8, 1879. The *Democrat* said that Nicholson, according to a sworn affidavit in a libel suit, was a citizen of Mississippi and therefore could not hold office in Louisiana.²⁸ The *Democrat* assumed that the Governor decided to change State Printers because it frequently had opposed him on political matters. It said that \$47,000 was still due the Printer for work in 1878.

With all the suits facing it, it was natural that a flurry of speculation should greet the change in State Printer, since that had been a large source of income to the paper. However, the *Democrat* vigorously denied such was the case. It said:²⁹

Our fellow-citizens must see from this statement of the facts that, so far from injuring the *Democrat*, the action of the Governor relieves it of a heavy burden and must strengthen it financially. There are rumors abroad already that we are seriously or will be seriously crippled by the loss of the printing contracts. But we assure the Democrats of Louisiana that this paper was never stronger than to-day; that it will survive the downfall of the Lottery; that it will live to see an honest constitution adopted, taxation reduced to five mills, prosperity revisit our borders, and the State governed on sound Democratic principles.

In April, Dupré's name no longer appeared alongside that of H. J. Hearsey as proprietor.

²⁶ *Democrat*, February 19, 1879, 4.

²⁷ *Times*, February 20, 1879, 4.

²⁸ *Democrat*, March 10, 1879, 2.

²⁹ *Idem*.

With rumors persisting that the paper would change hands and speculating as to its future policy, the *Democrat* explained that since the courts had forbade the payment of the \$40,000,³⁰

The consequence is, that they have felt it their duty as honorable men to permit their creditors to take possession of the property of the *Democrat*. At present we have nothing more to say of ourselves.

... We are authorized to say that under the control of the new proprietors there will be no material change in the policy of the *Democrat*. It is not to become, as has been circulated on the street, a bondholders' organ.

Nine days later appeared the "Valedictory" which reviewed its "battles and triumphs," declaring, "Perhaps it has been heretofore more of a fighting journal than a newspaper," it asserted.³¹

In all these fights the *Democrat* has raised a host of bitter and vindictive enemies; and, without other capital than our energies and our purpose of serving the State, the pressure of money, enmity, vindictiveness and official hostility have been more than we could withstand.

One of our associates, the State Printer, was actually assailed by two stacked grand juries and indicted by a third. Every ring, monopoly and bondholder in the State combined and arrayed themselves against us. And finally, with all the warrants the State owes us, for a year's work done and thousands of dollars of materials furnished out of our general business, enjoined by a Federal court, presided over by an infamous judge, the tool and property of the rings we have fought, the Democratic Governor of the State, when for the only time in the career of the paper we needed credit and official support, arbitrarily and against his own construction of the law, took from us the State printing and gave it to the New Orleans *Picayune*, a journal that, in its forty years of experience, never struck an honest blow for an honest cause in the State, and which has been the persistent enemy of the Democratic party.

Under these burdens and without capital—with only the affection and support of an impoverished people—we have been forced, at the very opening of the Convention alongside of which we had hoped to fight for the redemption of our people and State and for the final triumph of all the issues we have raised, to surrender the *Democrat* into the hands of other parties.

³⁰ *Ibid.*, April 15, 1879, 4.

³¹ *Ibid.*, April 24, 1879, 4.

With these explanations the proprietors of the *Democrat*, who have conducted it during the past three years, withdraw and bid a journalistic adieu to their readers.

The paper will indicate the policy of its new proprietors and retain the confidence of the people which its past has gained.

The "Salutatory" appeared three days later. It said,³² "The *Democrat* begins a new career. They who have watched its course in the past, whether approvingly or disapprovingly, will naturally desire to know what it will be in the future." It pledged itself to fight for the material prosperity of the South and Southwest, to "labor to secure for Louisiana an economical and efficient form of government, under which her people may, with renewed hope and vigor, build up her vast places . . . advocacy of railway communications with Texas, . . . rebuilding of levees." It continued:

This paper will aim to become the exponent of the principles of the Democratic party of Louisiana, not of any section or fraction of it, but of the party as a whole, and in its entirety. It follows necessarily that its editorial columns will be, not a vehicle for the enforcement of any one's individual views, but a reflex of the general sentiment of the political organizations in whose behalf it may assume to speak authoritatively.

A newspaper or political journal may be independent, or may acknowledge subordination to a party. But in the latter case, whatever it may command or advocate can be important only when it shall be the voice of the party.

... The *Democrat* will sustain the present administration in all its departments, in all things consistent with the welfare of the State.

Ironically, the *Democrat* changed hands on the day the Constitutional Convention for which it valiantly fought convened to change the organic law of Louisiana. On April 30, 1879, Major Hearsey's name no longer appeared in the *Democrat* masthead as editor. An editorial in June said he was being continued as the "chief editor of the *Democrat*."³³

So with the critical voice of the *Democrat* silenced, "Powerful interests were at work for selfish ends, and the Lottery at once allied itself with them. A strong lobby had been formed particularly in the interest of the refunding bondholders of the Kellogg

³² *Ibid.*, April 27, 1879, 4.

³³ *Ibid.*, June 3, 1879, 4.

regime. New bonds had been issued to conceal the identity of millions of bonds which were regarded as fraudulent, and for that reason there was a move to repudiate them. These allied interests carried the day in the convention, from which the Lottery emerged with limited berth in the fundamental law of the State."³⁴ Article 167 of the Constitution legalized the Lottery until January 1, 1894, "except its monopoly clause, which is hereby abrogated, and all laws contrary to the provision of this article are hereby declared null and void, *provided* said company shall file a renunciation of all its monopoly features."³⁵

Interest on consols was reduced to two per cent for five years beginning with 1880, three per cent for 15 years and four per cent after that date. The tax rate for debt purposes were slashed from 5½ mills to three mills.³⁶ The majority of the consol owners were unwilling to agree to the reduction and assigned their holdings to states to bring suits under the Eleventh Amendment, but lost when the Supreme Court held the states were merely agents. The Legislature of 1882 accepted a proposal of bondholders to pay two per cent for five years and four on longer periods. This agreement was passed as an amendment in May, 1884.³⁷

On December 4, 1879, the day the Constitution was ratified, Major Hearsey resigned and the paper passed into the hands of Major Burke who made important changes, curbed its political activity and devoted its columns "largely to the commercial up-building of the state."³⁸

Though badly shaken by the critical year of 1879, the Lottery emerged none the worse for the ordeal. In reality, by having survived the onslaughts and at the same time having eliminated its severest critic, the Compny was strengthened by the test of power. Evidence of that is the fact the Company reached the pinnacle of its prosperity and power during the late eighties. With its major opposition drastically crushed within the state, it was able to expand its sphere of influence throughout the nation. It definitely became national in scope with Louisiana being only its domicile from where it secured seven per cent of its business while 93 per cent came from other states.

³⁴ Buel, *loc. cit.*, XLIII, 626.

³⁵ *Idem.*

³⁶ Caldwell, *op. cit.*, 106.

³⁷ *Ibid.*, 107.

³⁸ Hart, *loc. cit.*, VIII, 559.

CHAPTER VIII

THE STATE AND THE LOTTERY PROSPER

Both the State of Louisiana and the Louisiana State Lottery Company prospered in the decade that followed the critical year of 1879. The Lottery was looked upon by many as a source of revenue in the years the state was in serious financial throes as a result of the War Between the States and the wild spending orgy and misrule of the carpetbag regime.

By 1890, Louisiana had enjoyed fourteen years of government since the complete overthrow of the carpetbaggers in 1876. During the period, the state had continued to purge itself of unhealthy influences both in government and business. The total debt, exclusive of bank bonds, was reported to be \$24,356,338.72 in 1874.¹ When citizens regained control of the government two years later, retrenchment, reform and economy were practiced more and more in order to pay off the debt piled up by the carpetbaggers.

Previous to the War Between the States, New Orleans was considered to be destined to become one of the richest cities in America. Her commerce in 1860 was \$128,801,128,² and in 1861, the New Orleans banks had \$22,751,000 in deposits and \$17,636,356 in specie.³ But all this was changed with the coming of the war when commerce was shut off by the blockade and in addition was taken from the northern part of the Mississippi valley by rail to the Eastern ports. Early in the nineteenth century, New Orleans was heralded as the port through which the commerce of the Mid-West would pass, but railroads changed that. Then to make matters even worse, the channels began to fill up so ocean-going vessels were unable to navigate.

But with the jetty plan of Captain Eads proving successful, large ships began to float in the Mississippi in 1879, thus enabling New Orleans to recapture her former position as a trading center. With the era of "stormy politics" over, Louisiana obligations became more stable and in the 1880's a small network of railroads was built throughout the state. It can safely be said that the state made considerable progress following the height of the regime

¹ Caldwell, *op. cit.*, 107.

² *Internal Commerce of U. S.*, 377, Treasury Dept., cited in Caldwell, *op. cit.*, 90.

³ Caldwell, *op. cit.*, 90.

of the carpetbaggers in the early seventies. Even though the state had suffered from periodical floods and visitations of yellow fever, it had enjoyed a large amount of prosperity after the critical Lottery year of 1879. Consequently, the issue was to be looked upon by the citizens in a little different light in 1890.

While building up a mammoth business in Louisiana, the Lottery Company did not neglect the national field from which it eventually obtained 93 per cent of its business. One after one the various states had outlawed lotteries in their constitutions, either prohibiting the sale of tickets or forbidding the legislature to grant lotteries. In the year 1889 alone, four states passed lottery legislation and, in 1890, Mississippi became the thirty-first state to do such.⁴ In addition to that number, Pennsylvania had made it illegal to advertise lotteries, although its constitution was silent on the lottery question.

Although the Louisiana State Lottery Company was flourishing during the eighties, it was not free from attacks as the Post Office Department on several occasions tightened down on regulations and court suits resulted and several bills were introduced in the Louisiana General Assembly.

Beginning in 1883, Postal Inspector George A. Dice gathered evidence of postal law violations, but each time the United States Court in New Orleans threw out the cases.⁵ When Postmaster General Key instructed the postmaster of New Orleans in 1879 not to deliver money orders and registered letters to the Lottery, Dauphin brought suit. Before the matter was finally disposed of by the courts, Key decided to resign. As a whole, the Lottery Company was able to halt all efforts made to prosecute it in court and attempts to revoke its charter.

Howard died June 1, 1885, from peritonitis. Dauphin had already succeeded him as president in 1876. Dauphin died on December 28, 1890, and was succeeded by Paul Conrad. During the eighties, there was no major newspaper fight within the state. However, that was not true of papers outside the state.

One of the bitterest opponents of the Lottery in the nation was Col. A. K. McClure of the *Philadelphia Times*. So successful was the crusade in Pennsylvania that the state passed laws in 1883 forbidding lotteries to advertise in papers within its bound-

⁴ Spofford, *loc. cit.*, 193.

⁵ Buel, *loc. cit.*, XLIII, 630.

aries. M. A. Dauphin, president of the Lottery, filed a suit against the *Philadelphia Times* which answered with a demurrer that was upheld by the U. S. Circuit Court for the Eastern District of Pennsylvania at its October session of 1883.⁶ When McClure visited the New Orleans Exposition he was served with papers claiming \$100,000 damage for libel. The fight attracted nationwide attention and Pennsylvania congressmen took the fight to the floor of the nation's legislative chambers. After considerable delay, the Lottery saw fit to seek a compromise which the defendants accepted. McClure reported, "After a good deal of litigation the lottery company paid the costs on both sides and the matter was dropped."⁷ The suits brought unfavorable notice to the Lottery firm as it is obvious that it was glad and eager to settle the issue out of court.

The Company was thought to have reached the pinnacle of its prosperity and power in 1889. The revenue range was estimated by one historian "from \$30,000,000 to \$60,000,000."⁸ A Louisiana historian stated that the revenue of the company was said to have been 25 million and declared:⁹

The anti-lottery orators were unjust in accusing all the partisans of the lottery of corruption, but there is no doubt that they were right when they maintained that it was the duty of the people to support their government and educate their children.

By comparison, it is interesting to note that the income of the Company was twice that of the United States in 1800.¹⁰ Since the firm's records were never examined and made public, it is impossible to arrive at the correct revenues of the Company. However, in the peak year of 1889, net profits as revealed to stockholders were \$3,400,000.¹¹ The amount spent for such things as the gigantic "reserve fund" is unknown, but it is obvious that at least 20 million dollars were spent for operating.

From 1880 to 1890 the amount paid in prizes increased greatly. Large advertisements were run in papers throughout the United States and numerous branch offices were operated in the leading cities of the nation.

⁶ McClure, A. K., *The Sunday Inter-Ocean*, Chicago, November 10, 1901, quoted in Berthold C. Alwes, "The History of the Louisiana State Lottery" (Thesis, 1929, Louisiana State University), 77.

⁷ *New Delta*, November 12, 1890, 4.

⁸ Chambers, *op. cit.*, I, 705.

⁹ Fortier, *op. cit.*, IV, 224-225.

¹⁰ Buel, *loc. cit.*, XLIII, 618.

¹¹ *Ibid.*, 624.

In addition to the daily drawings, the company held two semiannual drawings with a capital prize of \$600,000 and 10 monthly events for a capital prize of \$300,000. One writer estimated that the 12 drawings, if all tickets were sold, amounted to around \$28,000,000.¹² Total advertised prizes for the 12 drawings came to \$14,767,000, which gave a gross profit of \$13,252,800. The 100,000 whole tickets in the monthly drawings usually constituted a money value of \$2,000,000 with prizes advertised at \$1,054,000. In other words only \$52 out of every \$100 was paid out in prizes. Daily drawings were believed to be sufficient to meet current expenses easily as well as the \$40,000 paid annually to the Charity Hospital.¹³

Another index to the prosperity of the Company was the value of the Lottery stock which originally sold at \$100. A large number of the original shares was used to obtain votes for favorable legislation, but the bulk of the stock was said to have been retained by Howard and Morris. Dividends were 100 per cent in 1887, 120 in 1888, 170 in 1889, and 125 in 1890.¹⁴

A number of daily newspaper developments took place during the decade from 1880 to 1890.

The *Daily City Item* appeared June 11, 1877, as an evening publication with "Messrs. Bigney and Jewell" as editors, Wm. J. Hammond, city editor, and C. W. Clark, business manager.¹⁵ The *Item* did not enter into the Lottery crisis of 1879, but on becoming stronger during the eighties participated in the fight that opened in 1890.

After Dupré and Hearsey lost the *Democrat*, E. A. Burke eventually became sole owner and took the title of managing editor. The prosperous *Democrat* purchased the *Times* December 4, 1881,¹⁶ and took the name of the *Times-Democrat*.

After Major Hearsey resigned from the *Democrat* in 1879, Page M. Baker joined the paper and became editor-in-chief.¹⁷ Baker finally became managing editor.¹⁸ He had retired from active journalism after the famous battle of September 14, 1874,

¹² McGloin, Frank, "Shall the Lottery's Charter Be Renewed," *The Forum*, XII (1891-92), 560.

¹³ Buel, *loc. cit.*, XLIII, 620.

¹⁴ *Ibid.*, 624.

¹⁵ *Democrat*, June 13, 1877, 4.

¹⁶ *Biographical and Historical Memoirs of Louisiana*, II, 164.

¹⁷ *Weekly Democrat*, March 10, 1883, 12.

¹⁸ *Biographical and Historical Memoirs of Louisiana*, II, 164.

when Dan Byerly, chief owner of the *Bulletin* in which Baker held an interest, was killed.¹⁹ Mr. Baker's temporary retirement resulted from his health that was impaired by the strenuous duties attached to assuming a leading part in the movement to wrestle the control of the State government from the carpet-baggers.

Dupré and Hearsey did not remain out of journalism long, as they started the *Daily States* at the beginning of 1880. The *States* was far from being as aggressive as the former publication which Dupré and Hearsey directed. In fact the *States* became friendly to the Lottery cause.

The *Picayune* continued under the management of Mr. and Mrs. George Nicholson.

Of the four New Orleans dailies existing during this decade, not one could have been considered an anti-lottery paper.

CHAPTER IX

THE LOTTERY WOOS PUBLIC OPINION

Both the foes and friends of the Lottery lined up in the spring of 1890 for the crucial battle that would decide the fate of the Company. The year 1890 was marked by a continuous marshaling of forces to win public opinion, not only in Louisiana but also in the United States.

Several years before 1890, the Louisiana Lottery Company officials began to become known for their philanthropic activities. Gradually Lottery owners had become identified with banking, business, social and civic life of New Orleans and the state. Therefore, friendly newspapers pointed to them as leaders and respected citizens. An effort was made to attribute honor and public trust to the lives of the officials.

Although the Lottery charter was not to expire until January 1, 1894, under provision of the Constitution of 1879, the Company opened its campaign early for its renewal. The General Assembly was to meet in May, 1890, and the election of the Governor was set for the spring of 1892. The Lottery desired to win public favor in view of the legislative session, the election of the Governor and the campaign for renewal of the charter.

¹⁹ Hart, *loc. cit.*, VIII, 583.

In the spring of 1890, Louisiana was threatened with inundation from the Mississippi River. By April 6, sixteen levees had broken as the river began to rise. Naturally, dwellers in lowlands became alarmed, especially in view of the many breaks in former years. The *Daily Picayune* ran figures which gave 240 crevasses in Louisiana and in that part of Arkansas below the Arkansas River for 1882, 222 for 1883, and 176 in 1884.¹

The Lottery became extremely interested in giving aid to flood sufferers and sent out boats filled with food supplies. The *States* representative was aboard the *Dacotah* on its errands of mercy. The expeditions pictured the Lottery as highly benevolent. One story said:²

Capt. Mitchell cites as an instance of the welcome which the *Dacotah* received that one gentleman offered \$3 a head to the officers of the boat to remove his stock, and was grateful in acknowledging the relief when he was informed that the assistance was rendered absolutely without any expectation of reward and simply

IN A SPIRIT OF HUMANITY

... They were one and all profuse in their expression of thanks to the Lottery and the officer of the boat.

During her thirteen days' trip the boat fed, on an average, about 400 people each day, and yet she came back with a surplus remaining.

The *Daily States*, in an editorial entitled, "What the Lottery Has Done and Is Doing," pictured the Lottery as a friend when the state was in need. It said:³

There are a great many persons who are denouncing the Louisiana Lottery Company as a very wicked institution, seemingly forgetful of the fact that during the dark days of reconstruction the Lottery Company came forward in the hour of need and sore trial, just as it has done during the present floods, and helped the people with its money and its influence to establish home rule in Louisiana and to throw off the yoke of negro domination which was fast debauching and ruining the State.

¹ *Picayune*, April 6, 1890, 4.

² *States*, May 3, 1890, 4.

³ *Ibid.*, May 6, 1890, 4.

The *States* asserted that the state owed the Company a "debt of gratitude" for contributing \$40,000 to install the Nicholls government.⁴

The *States* pointed to the Constitutional Convention of 1879, "as able and select a body of men as ever Louisiana brought forth."⁵ It enumerated in detail the contributions the Lottery interests had made to the welfare of the people. For several years, the Lottery was active in attempting to secure for itself the title of public benefactor in order to gain public approval. The *States* said the former generation looked upon playing the Lottery "as an amusing pastime, an innocent habit, in no way moral or criminal. This custom was not all the result of the modern Company, though contributing to its success—a success that has enabled the Company and its members to show a generosity that merits the approval and challenges the good will of the public."⁶ The contributions which the *States* listed were time after time mentioned in editorials and speeches during the long fight.

Their elegant graceful and permanent benefactions adorn the city. A beautiful fire-proof memorial library building which promises to outlast the rest of the city, munificently endowed, richly stored and well managed, invites scholars and citizens to the free and convenient use of the richest products of human intellect.

A well equipped institution of classical and normal education invites young ladies to the free use of its ample resources. The Christian Woman's Exchange, a dispenser of unnumbered wise and thoughtful benefits, is installed in a stately and commodious hotel building. A new cemetery, wide in extent, far from the din of the central city, skillfully laid out, adorned with the product of the sculptors arts and hallowed by the graves and monuments of heroes, receives the dead to a classic rest and the living to a lovely resort of shade and flowers.

The lottery men and women have been liberal patrons of art in various ways. They have added to the number of fine, spacious and durable structures for residence and business. They have free of charge improved and adorned public grounds. Their capital has participated in planting, banking, insurance and all progressive enterprise. They have been lavish in liberality to worthy objects. Their vast enterprises employ thousands of artisans all the year. The brilliant

⁴ *Idem.*

⁵ *Idem.*

⁶ *Ibid.*, May 11, 1890, 4.

success which they have won by fair dealing and judicious management they employ in unstinted beneficence. Especially in this era of heavy calamity and gloomy distress, of the flood throughout alluvial Louisiana has won for them a title of esteem and gratitude not likely to be forgotten. Friends in need are friends to be remembered.

The *States* editorial then turned to future events almost as through inspired by high Lottery officers. It continued:

With a record thus marked with charitable deeds and munificent benefactions, they come before the General Assembly and the people to offer to share their gains with the State to the extent of half a million dollars a year, for a period of twenty-five years. . . .

They ask that the question may be put to the people, and the people have a paramount right to vote upon it, being the sole and final arbiters [*sic*] and judges of the fundamental law.

. . . The Lottery Company are [*sic*] surely entitled to a patient hearing and answer; and the people in their straitened financial conditions are supremely entitled to say at the ballot-box what they think of such proposal.

The editorial also pointed out that it "is for the parents of school children to decide if the State should accept or reject a magnificent annual income for better schools and for increased periods of tuition." Of the public charities, it said they "are crippled and our crowded asylums are in distress for the want of the very means here so auspiciously offered. Will the people reject it or not? Give the people a chance to say," it pleaded.

Next it turned to the "thousand miles of levees" the state had to keep up "with distressed taxpayers and a depleted treasury. Those who depend upon levees for protection and the means of subsistence ought to be heard from before this best addition to the levee fund of many coming years is rejected."⁷

Whether Lottery inspired or not, the *States* thus outlined in one editorial what the Lottery campaign was to be waged upon. It must be admitted that the Lottery had certainly produced a platform that had planks which appealed to people of varied and many interests. In short, it was a platform aimed to win public opinion.

⁷ *Idem.*

On the opening day of the General Assembly, May 12, the first number of the *New Delta*, a daily anti-lottery paper, was issued by a stock company with C. Harrison Parker and John C. Wickliffe as editors.⁸

Louisiana had a constitutional limitation of six mills for debt taxation and the Legislature each year had levied that amount. Nicholls in his Governor's message, opposed accepting the Lottery offer and in a vague manner suggested finding other sources of revenue. The *States* asserted, "Governor Nicholls knows that it is impossible for the Legislature to do as he recommends in his message."⁹ It criticized him for avoiding recommending repeal of the constitutional limitation and said if he and his friends would pass it, "we will join him against the Louisiana Lottery and will do all we can to beat Mr. John A. Morris and absolutely refuse the \$12,500,000 which otherwise we will surely accept with thanks."

In favoring the acceptance of the Lottery offer, the *Daily Picayune* explained that it was "under no obligation to Mr. Morris nor to the Louisiana State Lottery. It has no favors to ask from Mr. Morris individually, nor from a corporation that has more than once injured it materially, the *Picayune* belongs to no lottery ring, to no lottery stockholders and to no anti-lottery league. It is in a position to speak plainly and to view the matter impartially."¹⁰ Throughout the campaign the *Picayune* was forever pleading that it was not influenced by the Lottery interests but viewing "the matter impartially."

Kendall, in paying tribute to Mrs. Nicholson's ability as a manager, said that "it often happened that her keen sympathies led her astray, or those whose opinions she respected persuaded her to do what in her heart, she knew was wrong. An instance of the first sort occurred when the anti-lottery campaign was opening in 1890. Mrs. Nicholson saw very clearly the great advantage it would be for the *Picayune* to declare at once against the Lottery. But she and the family of John A. Morris, then president of the Lottery company, had been close friends for many years, and this intimacy swayed her judgment, and made her take the opposite course. The *Picayune* declared for the lottery,

⁸ Wickliffe, John C., "The Louisiana Lottery: A History of the Company," *The Forum*, XXII (1891-92), 570.

⁹ *States*, May 13, 1890, 4.

¹⁰ *Picayune*, May 13, 1890, 4.

and suffered very serious financial as well as moral losses in consequence."¹¹ Kendall joined the *Picayune* as a reporter in 1891, so he had an opportunity to learn at first hand the attitude of the paper.

The *Picayune* pointed to the great needs of the state for building levees and it was "soliciting bread from the Federal Government to feed her hungry people." It said that no doubt tax relief would be asked by the flooded areas. The *Picayune* mentioned that the "benefits of Mr. Morris' proposition are far away." Although favoring the acceptance of the offer, the *Picayune* did point out "that while the amount offered by Mr. Morris is large, it is too small for the privileges demanded. Simply from a business point of view such concessions as are asked for are worth vastly more. If the State is to make merchandise of them as a source of revenue it should be paid full value."¹²

A *Picayune* special from Baton Rouge quoted Morris to the effect that with the \$350,000 offer "an admirable levee system" could be built, a full school term could be held and a "first-class drainage system could be built for New Orleans."¹³ Morris said that the situation was more serious than when he first made his offer, so he was ready to "advance the state a sum for the purpose (levee building) at once, in order that our people may be not overwhelmed between this date and the expiration of the present lottery charter." On May 15, Morris suddenly got the jump on the opposition by doubling his offer, that is, one million dollars a year for an extension to 1915.¹⁴

The *States* said it had discovered in April "that a very large sum of money, (no less than \$150,000) was lying idle in the State treasury to the credit of the levee fund." It said it was unsuccessful in getting the Governor to release it for flood aid. In comparison with the Governor's stand it said, "The Lottery Company opened its coffers and tendered our meticulous Lawyer-Governor bountiful sums of money to save his imperiled people."

The *States* lamented, "The imputation of bad motives to the supporters of the amendment is the keynote of the whole discussion on their (the opposition) part. They labor hard to show that the Lottery is a bad thing. . . ." One of the most popular

¹¹ Kendall, *loc. cit.*, VIII, 561.

¹² *Picayune*, May 13, 1890, 4.

¹³ *Ibid.*, May 14, 1890, 1.

¹⁴ *States*, May 15, 1890, 1.

arguments used against the Lottery was the fact that it was conceived during carpetbag rule. The *States* printed editorial correspondence signed by "G.W.D.", no doubt George W. Dupré, which attempted to give the Legislature of 1866 credit for the Lottery.¹⁵ The dispatch said:

Baton Rouge, May 20 (Editorial Correspondence). The General Assembly of 1866, known as the Last White Men's Legislature was composed of the ablest men in Louisiana; prominent at the bar, in planting, in commerce, in finance, in insurance and all leading enterprises. Many of them at that time were comparatively new in the business of legislation, many of them afterwards became eminent in public life. Many of them were from the armies of the Potomac, Tennessee and the Trans-Mississippi, scarcely rested from the tedious camp and the weary march, with the grime of battle fields scarcely brushed from their gray garments.

They were essentially

THE REPRESENTATIVE MEN OF LOUISIANA

making up a body of which this or any State might well be proud, giving voice to the will of the people, striving to restore order, repair the ravages of war, re-establish fair and just government and provide ways and means for running the machinery of laws. More than half of the Representatives and Senators are now numbered with the dead while the lapse of twenty-four years has covered their legislative acts with cobwebs and mildew of time.

After putting across to the reader that the members of the "Last White Men's Legislature" was an honorable body, the correspondence stressed that the legislators looked upon it solely as a revenue measure. It continued:

The result of the law was the collection of licenses to the amount of \$36,000 in 1866, \$36,000 in '67 and \$28,000 in '68 during which year the Louisiana State Lottery was chartered, all of which was paid over to the Charity Hospital.

The dispatch said, "We have not access to the House Journal of 1866, but we are informed by one who was acquainted with the proceedings that the bill was considered almost entirely as a measure of revenue, very little objecting being urged." The Senate vote in 1866 was 20 to 6, with 9 being absent.

¹⁵ *Ibid.*, May 20, 1890, 1.

In an editorial two days later, the *States* said, "no legislature that ever assembled in Louisiana was composed of a higher class of men. It was the last white legislature that assembled prior to the carpetbag era and it was composed of the representative men of the Commonwealth."¹⁶ It said that the "intelligent, practical members of the Legislature, recognizing and accepting the correct view of the matter, legalizing the business and levied a license upon it, both as a police measure to suppress the swindling schemes and to raise a revenue for the State from the legitimate institutions." It said that no one had any idea about the worth of a charter when it was passed and that "though the charter of 1868 was granted by a corrupt radical legislature, its conception and origin was the logical outgrowth of the license system adopted by the Democratic Legislature of 1866. There is, therefore no reason for the unceasing tirade of abuse and villification which is now being poured out upon this institution as a purely radical, gambling and corrupt creation." The *States* argued that the million dollars was merely a tax "in almost every respect precisely similar to the internal revenue tax the Federal Government levied upon whiskey and tobacco. . . ."¹⁷ It said that those who desired to indulge in whiskey, tobacco and lotteries then paid a luxury tax and those that did not could keep their money.

The *States* interviewed former United States Senator B. F. Jonas who was chairman of the House Finance Committee that reported favorably in 1867 on a bill to grant "a lottery charter to Messrs. C. T. Howard and others." Mr. Jonas said that at that time he did not know Mr. Howard and that he did not "remember who were his associates."¹⁸ He said that by a combination of those who opposed it on moral grounds and those who desired to let more than one company engage in the business, Mr. Sambola was successful in amending it to include any company and the bill was indefinitely postponed.

In its comments on the Jonas interview, the *States* asserted that it was Antonio Sambola "who strangled the Howard Lottery bantling in the White Legislature of '67 with a cunningly devised amendment offered in the interest of the Madrid and Havana, as murderous as the Spanish garrote itself, which is as much a State institution of Cuba, and in Spain, as are the lotteries of Havana

¹⁶ *Ibid.*, May 22, 1890, 4.

¹⁷ *Idem.*

¹⁸ *Ibid.*, May 27, 1890, 2.

and of Madrid."¹⁹ The *States* repeated that it granted the Legislature of 1868 was a "cesspool," and asked, "now will Senator (Murphy J.) Foster, believing in the record of the Legislature of 1867, which we print elsewhere, and in the words of Senator Jonas, grant in his turn that the Lottery—the Howard Lottery—was conceived in as pure, virtuous and patriotic a Legislature as ever graced the political annals of Louisiana?"

The *States* also ran the names of those who voted for Act No. 21 of 1866. The bill was introduced by Mr. Fenner who became a Justice of the Supreme Court. It pointed to supporters of Act No. 21 as an "indication of what was then thought of the propriety and expediency of taxing lotteries and making from that business a revenue. . . ."²⁰

As the Lottery supporters began to push the fight in the Legislature, pressure was reported being brought in the river parishes to have their legislators support the amendment.²¹ Mr. Foster reported receiving an offer from H. S. Davis, who was unknown to Mr. Foster. Mr. Davis said he represented a syndicate which would give \$1,200,000 for the franchise.²² Mr. Foster first said Mr. Davis was of Memphis but the next day said it was St. Louis.

Foster on May 22 introduced a resolution to investigate bribery and corruption. The *Picayune* reported in its news columns, "It is generally understood that the member referred to as having been invited to visit New Orleans was the Rev. John Franklin of Vernon."²³

Governor Nicholls made public receipt of a telegram from Juan Pedro, manager of the Zacatecas State Lottery Company of Mexico. The message said:²⁴

Our company desires to submit proposition for charter on basis similar to terms offered in \$1,000,000 per annum for 25 or 50 years, not requiring exclusive privilege. . . .

The Company asked for an immediate answer so a committee could leave at once to confer.

¹⁹ *Ibid.*, 4.

²⁰ *Idem.*

²¹ *Picayune*, May 22, 1890, 1.

²² *Idem.*

²³ *Ibid.*, May 23, 1890, 1.

²⁴ *Idem.*

The *Picayune*, in an editorial on "The Millions of Mr. Morris and the Needs of the State," said, "The opposition to this grant is many sided. The strongest opposition comes from a combination formed to establish other lottery companies. . . . This combination leagued with a smaller party that opposed all lotteries. It made a strange mixture."²⁵

During the drive to secure another charter the Company said that 93 per cent of its business came from outside of Louisiana.²⁶ By 1890, thirty-two states had outlawed lotteries and Mississippi became the thirty-third commonwealth in 1890 to prohibit the sale of lottery tickets.²⁷ Cities for a long time had been directing raids on policy dens of the Louisiana firm. Naturally the press of the nation took cognizance of the fight going on in Louisiana. The *Picayune* observed:²⁸

. . . Tender people say the press of other States denounce the Louisiana Lottery. That is reasonable. The chief complaint of California, Missouri, Illinois, Kentucky, New York and other papers is that thousands upon thousands of dollars are sent yearly from their States to Louisiana to prevent their people from sending their money here where its influence for good is felt in charitable appropriations and low rates of interest.

The *Chicago Tribune* and other papers of note are particularly severe on political or moral or any other grounds available for illustration. But when were any of the radical *Tribunes* or judges of Northern States kind to Louisiana in purpose or expression? There is no sincerity in the condemnation of our enemies and no good in their censure.

Whether or not the people of Louisiana are to accept the millions offered by Mr. Morris is to be settled in *this* State. . . .

Throughout the fight, the *Picayune* continued to urge that the issue be submitted to the people, "the most proper and competent authority."²⁹ The *States* likewise pleaded that it "was one for the people of Louisiana alone to accept or reject; and that it was the duty of the Legislature to submit the matter to them."³⁰

²⁵ *Ibid.*, June 3, 1890, 4.

²⁶ Buel, *loc. cit.*, XLIII, 629.

²⁷ Spofford, *loc. cit.*, 193.

²⁸ *Picayune*, June 3, 1890, 4.

²⁹ *Ibid.*, June 10, 1890, 4.

³⁰ *States*, July 2, 1890, 4.

When the lottery revenue amendment passed, the *Times-Democrat* declared:³¹

. . . . The arguments pro and con have been presented thoroughly; and now the matter has been definitely determined in the Legislature, they can rest awhile. That body has done its duty by the people and referred this matter to them—and the people of Louisiana will do their duty also, as they have always done in the past. . . .

The *States* was even more jubilant over the Lottery triumph. It used three-fourths of its editorial columns for its discourse which was mainly praise of Mr. Morris. The *States* said:³²

In all our journalistic experience we have never encountered so foul and dirty a plan of campaign as this, and we have seen a great amount of dirt in journalism and politics. The scheme was to blast the names of honorable men; to ruin their business as a return for their more than princely liberality; to cheat the people into throwing away millions of money, and inveigle them into a conspiracy against their own interest, and the charitable and educational institutions of their own State.

. . . . No man stands higher in this community socially and financially, than Jno. A. Morris; he has a large fortune, it is true, but he has used that fortune in improving and ornamenting this city, and in the promotion of great material and industrial enterprises in other portions of the State; no one knows the large measure of his private and unostentatious charities, but a liberality so profuse as his has time and again overflowed its mere personal channel and shone forth in a silvery stream as a witness of its generous source.

When Governor Nicholls vetoed the rechartering bill, the *Times-Democrat* said the message "does not call for much attention." It pointed out that the bill had "already obtained the two-thirds majorities in both houses of the Legislature" as required by the Constitution. Sending the bill to the Governor was described as merely "an act of simple courtesy to the Chief Executive, and not that his approval or disapproval in the matter is any way requisite in the premises."³³

³¹ *Times-Democrat*, July 2, 1890, 4.

³² *States*, July 3, 1890, 4.

³³ *Times-Democrat*, July 8, 1890, 4.

The Senate Lottery wing began to survey the membership as to the possibility of passing the Lottery act over the veto of the Governor. They needed one vote, but that person was Senator J. Fisher Smith who was ill in his apartment in the Mayer Hotel, several blocks from the capitol building. Senator O'Sullivan read a plea from Smith requesting the body to adjourn to his apartment under Article 33 of the Constitution so he could cast his vote for the Lottery bill vetoed by the Governor.³⁴ It was a sensational and unusual request and after some parliamentary maneuvering, the matter of the veto message on House Bill No. 214 was permitted to "lie over on the calendar."³⁵

But fate intervened, as Senator Smith died the following day. Death had foiled the one chance the Lottery wing had of passing the measure so the Legislature adjourned soon after learning Smith had succumbed.

It was a dramatic incident in the struggle. The *States* feelingly praised, "his sense of obligation to his people triumphed even in the very presence of the grave and he demanded, nay pled, to be accorded the privilege and opportunity of casting, as his last act on earth, his vote for what he conceived to be the most sacred interests of the State."³⁶

The *Picayune* moaned:³⁷

The death, at his post of duty, of Judge J. Fisher Smith, a Senator for the State of Louisiana, in the last hours of the last day of the most eventful session of the General Assembly, is one of the saddest episodes we have recently been called upon to record.

The *Picayune* pleaded for harmony. In part it said:

We do not cry down the zeal and activity of partisans on any side. Men did what they believed was their duty; but the struggle is over. . . . Harmony is what Louisiana most needs on the part of her sons, and over the bier of the dead Senator we beg that resentments growing out of the heated session of the Legislature of 1890 may be discarded, and the members of the General Assembly part as friends and brothers.

³⁴ *Picayune*, July 10, 1890, 8.

³⁵ *Ibid.*, July 11, 1890, 8.

³⁶ *States*, July 11, 1890, 4.

³⁷ *Picayune*, July 11, 1890, 4.

Writing six months later, the *New Delta* vividly pictured the closing events of the "great Lottery drama." It said:³⁸

The closing scenes were of that marvelous character to impress themselves not only upon the State of Louisiana, but upon the entire nation. The origin of debauchery had been stricken by the hand of death. The carriage which stood so long at the door of the dying senator's hotel gave place to the hearse. The hand of God had stayed the last vote that was to override the veto of the chief executive.

The elements had predicted the fatal end. When the lottery debate opened in the House of Representatives a black canopy covered the heavens. The voice of the Lottery leader in the opening speech was drowned by the voice of nature, and ere he closed a blinding flash fell athwart the sky followed by a crash, as if the very ribs of the globe had been rent asunder. Members cowered in their seats and a shudder went through the vast assembly at the supervening darkness. The lightning had extinguished the lights and the same fiery breath had left its halo in the Senate chamber at the other end of the building, and the little glass bulbs that hung on the chandelier then gave forth a light that came not from the dynamo governed by the hand of man, but straight from its great reservoir in the bosom of the Divine Master. The light of God's truth had gone out in the hall where Shattuck stood, and He had placed His seal upon the Senate Chamber.

Following the lightning came the grim message of death to invade that hall, and snatch away the vote that was to place the capsheaf upon this iniquitous legislation. He had been there before and he came again.

After the General Assembly adjourned, the fight was carried from the legislative chambers to every corner of the state and even to the floor of Congress.

CHAPTER X

CAMPAIGN FOR PUBLIC OPINION WAGED ON MANY FRONTS

The Lottery measure as passed by the General Assembly levied a license of \$1,250,000 annually for 25 years with a total revenue during that time of \$31,250,000.

Of the \$1,250,000, \$350,000 was to go to schools, \$350,000 to levees, \$250,000 to the general fund, \$150,000 to charities, \$100,000 to drainage in New Orleans, and \$50,000 to pensions.

³⁸ *New Delta*, January 13, 1891, 4.

Those six points became major fronts on which the campaign for public approval was waged. Besides those fronts, there were many others. From the spring of 1890 to the spring of 1892, the Lottery was perpetually a subject for editorial comment. Almost every issue of the New Orleans daily papers carried from one to three editorials on that vital topic of the day.

Of course the fight involved many questions, but in brief it simmered down to this: a paper was either Lottery or Anti-Lottery and was known as such by its contemporaries. A survey of the state press during the fight revealed 173 for to 28 against.¹ The Postmaster General announced, "of the 2257 newspaper editorials, published in 850 papers, which have come to the notice of the Department during the past year, 2172 have opposed the use of the mails by lotteries, and 87 have favored it."² The Postmaster General did not reveal how many of the 87 were from Louisiana papers.

The pro-press did all in its power to win favor for the Lottery by stressing what the revenue would do for the state, extolling its virtues and defending it as a vice. The anti-press denied its money was needed, attacked it as an evil institution and pictured it as a sinister monopoly.

Educational

One of the fronts on which the Lottery battled for public opinion was in the field of education. That was natural since the Lottery Company offered \$350,000 annually to the public school system. The Lottery press and candidates pointed to the needs of the schools and in turn the Anti-Lottery press and candidates denied that it was necessary to accept the \$350,000 from the Company. Some of the arguments were based on facts and figures while others were emotional.

The *States* asserted:³

The man with proper state pride, the friend of the less favored citizens, the man who loves children, the man who values aright the benefits of education, the man who wants Louisiana to be on a par with other States in enlighten-

¹ Buel, *loc. cit.*, XLIII, 627.

² *Ibid.*, 631.

³ *States*, May 23, 1890, 4.

ment, the man with patriotic emotions and sentiments, the man of real sagacity will think twice before he throws away this chance of adding \$350,000 to the education fund.

The *Times-Democrat* took exception to the statement by the Superintendent of Education to the effect that Louisiana was stamping out illiteracy faster than any State in the Union except Virginia. The *Times-Democrat* asserted that reports of the Secretary of State show "in the clearest manner possible, in statistics beyond dispute or criticism that illiteracy is increasing in this State."⁴ The editorial declared educational statistics in the state were fraudulent and urged the taking of a "correct school census" so it would be known how many children had to be educated.⁵

In the fall of 1891, the *Times-Democrat* laid considerable editorial emphasis on education. "The school situation is even worse than we imagined, for there are more children to be educated than was supposed, and a large number who get no schooling whatever."⁶ The *Times-Democrat* said:⁷

When it is considered that our insufficient school system—an insufficiency due altogether to lack of funds, and not to lack of interest on the part of the people—has had so bad an effect in many ways; that it is a bar to immigration, since the very class of immigrants we want, white settlers from the West and South, do not care to move to a State where their children will be denied the advantages of education; that it has resulted in giving Louisiana a majority of illiterate voters, a great danger in any republic; and that it has had its bad effect in many other ways, the necessity of some decided action to overcome this defect and remove this danger becomes evident.

The *Times-Democrat* observed, "The amount annually set apart for the schools is larger than that the State now gives for the current school fund. . . . It is believed that this large revenue for the schools will interest the people in them and stimulate the parishes to make special efforts in favor of better education. . . ."⁸ "We know of no plan suggested that is in the slightest degree practicable except the revenue amendment, which hits the mark

⁴ *Times-Democrat*, June 5, 1891, 4.

⁵ *Idem.*

⁶ *Idem.*

⁷ *Idem.*

⁸ *Idem.*

and provides the amount required."⁹ "Just as Gov. Nicholls preferred to see some of our fairest parishes overflowed rather than accept lottery money for the levees and prevent the crevasses, so the anti-lottery leaders would give the State over to ignorance rather than accept this money tendered for its schools."¹⁰ The *Times-Democrat* reported that the section of the revenue amendment that "has received the most applause, and which promises the greatest good,"¹¹ was the part providing school funds. The *Item* severely criticised the state system as being "theoretical education, never reduced to practice. . . ."¹² "It is a question of money," the *Item* asserted.¹³

The *New Delta*, in an editorial entitled, "Will You Do It?" appealed to "those men who have formed mistaken impressions on this subject and who stand honestly on the side of the Lottery," to "go home to the bosom of your family to-night after the day's work is done" and talk it over with his wife. If they decided the Lottery was desirable, then to teach the following prayer to their children:¹⁴

God, bless the lottery and its ways. Bless its effect and its objects. And God, grant that the people may vote in favor of the lottery and that it may win. And this I ask for the sake of Him who died for me. Amen.

The editorial then asked, "Can you teach your infant boy to send that petition to his God?"

The *New Delta*, in a sarcastic tone, said, "The generous, benevolent, philanthropic Louisiana State Lottery Company whose income is *thirty million dollars*, offers, from the generous promptings of its benevolent heart, to each school child in Louisiana *eight-tenths of a cent* a day." "To save this pitiful sum are you willing to educate your children with money won from negro washwomen and filched from the market basket and store tills of the country?"¹⁵

The *Times-Democrat* gave illiteracy as being on the increase and said that by 1900, "we will have 277,973 voters with an

⁹ *Ibid.*, August 8, 1891, 4.

¹⁰ *Ibid.*, September 12, 1891, 4.

¹¹ *Ibid.*, August 8, 1891, 4.

¹² *Item*, September 17, 1890, 2.

¹³ *Idem*.

¹⁴ *New Delta*, September 11, 1890, 2.

¹⁵ *Ibid.*, September 13, 1890, 2.

illiterate or ignorant majority of 72,283—a great and threatening danger to the commonwealth, and between a third and a fourth of the white voters, instead of one in five and a half at present, will be unable to read their ballots.”¹⁶ The *Times-Democrat* printed a table from the Census Bulletin which showed the number of children in a school in proportion to population. Kansas led with 280, Wyoming next to last with 116, and Louisiana at the bottom of the list with 111.¹⁷

The *Times-Democrat* said, “There are 302,072 children of a school age in the country parishes. The revenue amendment will provide for 211,324 of them, which, with the 12,000 in the private and parochial schools will make a total of 223,321 being educated.”¹⁸

The *New Delta* defended the anti-lotteryites against the Lottery supporters.

The *Delta* said:¹⁹

There is no contention that the public school system is perfect. The claim is that it is good, that it is steadily and rapidly growing better, and that by their own efforts and without the aid of the lottery the people will make it perfect.

The following figures of the Department of Education shed some light on the growth of the school system during this time:²⁰

	Enrollment	Teachers	Session	Total-Income
1880	White 31,642	959	1½-9 mo.	\$ 444,979
	Negro 22,670	327		
1889	White 84,456	1919	5½	
	Negro 48,137	751	4¾	842,954
1891	White 75,688	2116	5½	
	Negro 55,021	887	4¾	1,018,790

Thus it is seen that the attendance of white students decreased from 84,456 to 75,688. While the attendance fell, the number of white teachers increased by 197 as the revenue jumped from \$842,954 to \$1,018,790 during the two years after 1889.

¹⁶ *Times-Democrat*, September 23, 1891, 4.

¹⁷ *Ibid.*, October 14, 1891, 4.

¹⁸ *Ibid.*, September 23, 1891, 4.

¹⁹ *New Delta*, November 11, 1890, 2.

²⁰ Harris, T. H., *The Story of Public Education in Louisiana*, 18.

The *Times-Democrat* printed statements from reports of educational experts who pointed to the need of additional revenues. That paper said, "The State, not the people, is at fault; and so every authority has declared as follows:²¹

Declaration of State Superintendent of Public Education Jos. A. Breaux (1888-1890): "We are hampered by the Constitution in the limitation of appropriations for schools; *until it is possible to increase these appropriations*, there cannot be the improvement in the system which the times demand."

Report of the United States Commissioner of Education: "The public schools of Louisiana *cannot be improved or made what they ought to be without more money.*"

The trouble with the public schools and their deficiencies are due, it will be seen from the reports of men who have in charge the educational departments of the State and the Union, not to the people, not to their neglect and refusal to send their children to public schools, but to the failure of the State to provide sufficient school funds.

The Lottery supporters no doubt had plenty of evidence to point to in regard to the school facilities which had been sadly neglected during the war and the Reconstruction era. The *New Delta* criticized "leaflets" of the pro-lottery Progressive League. The *New Delta* said the State was slandered by the leaflets which would have the effect of telling prospective settlers they would be bringing "their children to a State barren of education advantages to grow up in ignorance."²² The *New Delta* said that with the exception of Virginia the school term in Louisiana was equal to that of any state.²³

The *Times-Democrat* stated that the *Ruston Progressive Age* "agrees with us that the reason why other States have received so many more immigrants than Louisiana is because of their better schools. . . ."²⁴ It is said that the *Progressive Age* asked "in all candor" whether other States have a "lottery revenue" for the establishment and maintenance of their fine public school systems? If not, why is it necessary for Louisiana to have such a source of revenue?"

²¹ *Times-Democrat*, September 23, 1890, 4.

²² *New Delta*, September 12, 1890, 2.

²³ *Idem*.

²⁴ *Times-Democrat*, October 26, 1891, 4.

The *Times-Democrat* answered:

The school systems of a large proportion of the States were established through lotteries and with lottery money, and would not be as good as they are to-day but for it, and no one pretended to see anything wrong in their using lottery money for this purpose. If the *Progressive Age* will glance at the various reports published by the United States Bureau of Education on education in the several States—there have been ten volumes published thereon so far—it will find this fact, that the schools, academies and colleges were established on lottery money, fully set forth; and will learn also that the school systems of the States would never have been established at the times they were but for this assistance and that the schoolhouses to-day, and much of the permanent school and college funds, are derived from "revenue amendments" similar to that now proposed in Louisiana.

Levees

The *Times-Democrat* reported, "The friends of the rivers and harbors bill are becoming alarmed at the unsatisfactory status" of the rivers and harbors bill.²⁵ It said that experience had shown the bill should be before the President ten days before Congress adjourned to escape a veto. The *Times-Democrat* was far from being optimistic about favorable action from Congress but it ended with this thought, "We want a certain, reliable, permanent fund, which we can count on every year. In this way only will the levees ever be built as they should be." Although the Lottery was not mentioned, it is obvious where that fund would come from.

The *New Delta* stated that the Lottery agents were busy fomenting opposition to levee district taxation.²⁶ It gave figures to show that \$1,250,000 yearly would be spent on the system and opined that before "the new lottery charter could go into effect and anything be realized from it, the whole alluvial district would be forever placed beyond danger and lands tripled and quadrupled in value."²⁷

As the Lotteryites concentrated on levee support, the *New Delta* stated, "They have been painting the most dismal pictures of disasters to come, and point to the lottery as the only ark of refuge for the people."²⁸ The *New Delta* pointed to the fact that the

²⁵ *Ibid.*, September 8, 1890, 4.

²⁶ *New Delta*, September 8, 1890, 4.

²⁷ *Idem.*

²⁸ *Ibid.*, October 3, 1890, 2.

Federal Government was taking a "hand in earnest in the lottery fight" as the appropriating of three and a quarter millions "for the Mississippi river, with the removal of the restriction on levee building, was a staggering blow."²⁹ The Mississippi River Commission ended its sessions in New York after appropriating \$2,625,000, of which \$1,350,000 was for Louisiana, so the *New Delta* reported.³⁰

The *New Delta* took a highly optimistic tone toward the levee outlook and throughout its opinions there was an undercurrent to the effect that the Lottery's money was a trivial sum compared to what the Federal Government was spending. The *New Delta* predicted:³¹

The year 1890 will be characterized in the annals of Louisiana as the great levee building year. Never in the history of this Commonwealth has there been such activity and spirit displayed. Thousands of men and hundreds of teams are now laboring on the vast earthworks and there are to be soon reenforced by an army of laborers from the West. Contractors have exhausted the supply of laborers to be obtained in the South and will have to await the annual influx of thorny handed toilers that come down the Mississippi Valley when the Ice King covers with its mantle the Great West.

For the entire four years of Governor McEnery's term ending in April, 1888, the total amount of levee building in Louisiana by State, district and Federal money was 9,877,755 cubic yards, or but little more than will be constructed this year.

The *New Delta* said that the people were highly satisfied with the district boards provided at the last session of the Legislature and that the opposition "is made with an object."³² In addition to the state improvements it said, "The nation has come to our rescue with a large appropriation. . . ."³³

Commenting on protest meetings held in Donaldsonville and in East Carroll Parish, the *New Delta* asked, "And why were the lottery schemers interested in thwarting the efforts of the

²⁹ *Idem.*

³⁰ *Ibid.*, October 6, 1890, 1.

³¹ *Ibid.*, October 16, 1890, 2.

³² *Ibid.*, October 17, 1890, 2.

³³ *Idem.*

people to build levees?" It answered, "The lottery managers saw that if they allowed the work to go on unmolested the levees would be in such a condition before 1892 that no sane man could claim that the lottery money was needed. . . ." ³⁴

The *Times-Democrat* was in favor of the Mississippi River Commission's recommendation that the funds be allotted to areas according to the amount appropriated by that region. "With a large levee revenue, such as Louisiana will have when the lottery amendment is adopted, it will under this ruling, receive the greatest portion of the Federal appropriation," the *Times-Democrat* stated. ³⁵

With the annual spring rise at hand, the *Daily Picayune* declared, "Whatever the Governor and Senator White may have promised concerning the abundance of funds for levees, may be good enough when no flood threatens, but when the waves are washing against our thin embankments, there is no money for the great emergency." ³⁶

When the Mississippi River Commission granted \$347,000 for levees in Louisiana, Mississippi and Arkansas instead of \$3,000,000, the *Times-Democrat* remarked half-scornfully, "For this small donation we must be thankful; still the fact remains, that unlike other things, unless the entire line of levees can be maintained the danger of overflow is great, and that ten miles of breaks will do almost as much harm as a hundred miles." ³⁷ The *Daily City Item* asked, "Is there any possible escape from the alternative of more and more taxation, or the adoption of the lottery revenue amendment which can be made the basis of a loan that would furnish at once all the funds needed to complete a satisfactory levee system?" ³⁸ The *Item* was skeptical of the next Congress being "politically harmonious and liberally disposed in the way of appropriating funds. . . ." ³⁹

The *Louisiana Review* said that the moralists could look on the Lottery proposition from the "hills" but the "\$350,000 that would go annually to the levees from the coffers of the lottery would help powerfully to build and keep them in order." ⁴⁰ The

³⁴ *Ibid.*, October 31, 1890, 2.

³⁵ *Times-Democrat*, December 24, 1890, 4.

³⁶ *Picayune*, February 25, 1891, 4.

³⁷ *Times-Democrat*, July 19, 1891, 4.

³⁸ *Item*, July 18, 1891, 2.

³⁹ *Idem*

⁴⁰ *Louisiana Review*, July 22, 1891, 4.

Picayune asserted, "The Billion Dollar Congress in two years of most shameful extravagance and treasury-raiding has plundered the treasury to complete emptiness. . . . The next Congress will find nothing to give to the Louisiana levees."⁴¹ The *Times-Democrat* said that the anti-lottery backers were comparing the \$350,000 national grant to the \$350,000 offered by the Lottery. It said that the River Commission sum was for Arkansas, Mississippi and Louisiana and therefore meant less to Louisiana than the Lottery grant.⁴²

The *Item* opposed a direct tax and favored "assessing it upon millions of people, outside the valley" and said such a measure was "embraced in the revenue amendment of the Constitution."⁴³ It said, "Borrowing is out of the question as the banks would have to be repaid with interest. The constitution and the people alike forbid a resort to taxation."⁴⁴

It is interesting to note that the *Louisiana Review* did not approve of the Eads policy of scouring the channel which the weekly said called for high levees. It advocated a slower process of dredging.⁴⁵

When there was talk of calling Nicholls the "levee governor," the *Times-Democrat* called the Governor an obstructionist and argued, "McEnery was honored with the title of 'levee governor'—because he did something personally, because he did not leave the work to others, but took it in hand himself, and Gov. Nicholls in his whole gubernatorial career has not done one single act that will allow him to dispute for a moment this title of his predecessor."⁴⁶

New Orleans Drainage

The *Times-Democrat* was alarmed over the Census Report, entitled, *The Social Statistics of Cities*, which stated that New Orleans was poor in health and drainage. The paper said the mortality of the city was 25.95 per thousand ten years previously but the 1890 figures gave 28.40, "a decided increase during this period."⁴⁷

⁴¹ *Picayune*, July 29, 1891, 2.

⁴² *Times-Democrat*, August 4, 1891, 4.

⁴³ *Item*, December 22, 1891, 2.

⁴⁴ *Ibid.*, September 15, 1891, 2.

⁴⁵ *Louisiana Review*, April 1, 1891, 4.

⁴⁶ *Times-Democrat*, July 23, 1891, 4.

⁴⁷ *Ibid.*, September 13, 1891, 4.

The *Times-Democrat* pointed out that the \$100,000 dedicated to drainage in New Orleans would "provide a certain fund for this purpose—something the city has never had before—and will enable it to establish a full and perfect drainage system. This was estimated by the city surveyor to cost \$1,000,000, and he had suggested certain improvements and additions that would call for about double that sum. The amount, therefore, coming from the revenue amendment, \$2,500,000 means the comfort and cleanliness of New Orleans. It will add greatly to the health of the city, decreasing the death rate and saving hundreds of lives and thousands of cases of sickness annually—a present loss which, it is estimated, costs New Orleans in labor nearly a million dollars annually."⁴⁸ The *Times-Democrat* pointed out, "The mere pecuniary loss is immense, without taking into consideration the suffering and agony—the widows and orphans made so by the premature deaths of husbands and fathers, victims of malaria, fever or some of the other maladies due to bad drainage."⁴⁹

Charities

The *States* charged that Governor Nicholls did not believe the state was obligated to care for the insane. It asserted:⁵⁰

A bitter and narrow man who, in his furious opposition to a corporation which has already done much for the charitable institutions of the State of Louisiana and which proposes and desires to do more, coolly signifies his willingness to sacrifice hundreds of demented and helpless persons. We do not hesitate to say that the people of Louisiana will not be slow to repudiate and rebuke the course of Gov. Nicholls and to shower upon him the contempt he has earned.

As for the charities the *Times-Democrat* opined:⁵¹

The amounts provided for the various charitable institutions will prevent them from ever being short of funds for their proper support and management. The Charity Hospital will escape the losses from which it has suffered in the past in being compelled to sell its warrants at a heavy discount, because it needed money to feed the inmates; and it can make improvements that will be of great advantages to it.

The Insane Asylum will be able to care for all the pauper insane in the State if the \$40,000 to come from the lottery

⁴⁸ *Ibid.*, August 2, 1891, 4.

⁴⁹ *Ibid.*, September 13, 1891, 4.

⁵⁰ *States*, May 14, 1890, 4.

⁵¹ *Times-Democrat*, August 2, 1891, 4.

be added to the usual appropriation, and will not be compelled to refuse admission to so many for lack of accommodations at this institution, compelling their confinement in the parish or police jails.

Pensions

The pro-lottery Progressive League directed the sixth number of its leaflets entitled, "The Question of the Hour," to Confederate soldiers of Louisiana for whom \$50,000 would be provided in the new charter of the Company. The *Lake Charles American* said, "The document is short and weak, and every Confederate soldier receiving one should, and doubtless will, regard it as an insult."⁵²

The *Times-Democrat* declared that Northern papers had attacked the Lottery on the grounds that the firm's "revenue came mainly from the Northern States, and that Congress ought to interfere to prevent that section from being drained of money to advance Southern interest, to maintain the levees and schools; and, above all, they object to any of it being used for pensions to Confederate veterans. They take millions a year from Louisiana with their pension law, and ask for congressional interference to prevent any of it coming back again for the levees, schools or pensions for Confederate soldiers."⁵³

Financial

The new charter of the Lottery allotted \$250,000 to the general fund but the financial arguments involved the entire revenue amendment. That was natural because it was strictly speaking a revenue measure even if it did legalize gambling which was objected to on moral grounds.

The *States* declared:⁵⁴

The advocates of the revenue measure are working for the highest interests of the people. They recommend and are trying to secure what will be for the future good of Louisiana as an independent, self-governing, self-supporting state. They are striving to secure her national interests and the development of her material resources. They are working for the adoption of a measure that will redeem Louisiana from the bane of illiteracy. . . . They want in due

⁵² *New Delta*, November 17, 1890, 2.

⁵³ *Times-Democrat*, November 20, 1890, 4.

⁵⁴ *States*, January 15, 1891.

time to free future generations of the incubus of a great public debt, which can never be done otherwise without imposing a burdensome rate of taxation. They are laboring to place the State treasury on such a basis that at some day in the future the representatives of citizens now living can afford to set aside such a moderate sinking fund as will extinguish the greater part of the existing State debt in twenty or thirty years. . . .

At the present moment, we are not discussing the moral tendencies of excesses in any habit or amusement or indulgence. Looking forward for the good of the present and future inhabitants of Louisiana, in a spirit free from prejudice and bigotry, with all due respect for fair-minded antagonists, we are trying to give our readers facts and reasons in favor of a great and beneficent revenue measure.

Denying that it was absolutely necessary for the State to accept the Lottery money the *New Delta* declared, "Never, since 1863, has Louisiana been in such a prosperous condition as she is this minute. No man can point to one single moment in Louisiana's history for the past twenty-seven years and say that at that time she was in better circumstances than she is now."⁵⁵ The *New Delta* said the only thing cramped during the previous year was the insane asylum, "and the next thirty days, we are told, will see it amply able to take care of all our unfortunate, and more."

To the favorite argument of the Lottery backers who said, "That is a sentimental objection, I am a practical man. . . . I am a business man, not a sentimentalist," the *New Delta* argued that according to the Company's own assertion, monthly drawings amounted to \$28,000,000 yearly. Of that amount only seven per cent came from Louisiana, that is \$1,960,000. The Company offered \$1,250,000. "This makes a balance *against* the State of \$710,000 a year, or in 25 years for which it is proposed to let this lottery run the sum of \$17,750,000, *over and above the amount* the lottery proposes to pay the State. My 'business' friend, is that business?"⁵⁶ the *New Delta* queried.

The *Times-Democrat* reviewed the property taxes of New Orleans and concluded, "The tax rate for 1890 is the highest, with

⁵⁵ *New Delta*, October 29, 1890, 2.

⁵⁶ *Ibid.*, September 6, 1890, 2.

two exceptions, in the last fifteen years."⁵⁷ It said that the tax was 27.2 mills. The *States* said that "many of the other States derive large revenues from their productive properties and money invested in bonds and stocks, which enable them to meet their expenses by levying very light taxes on the property and industry of their people." The *States* declared, "Louisiana has no such resources. . . ." ⁵⁸

The *Times-Democrat* pointed to the United States internal revenue tax system as being expensive to collect. It is estimated that to collect the same amount in internal revenue taxes as the Lottery proposed to pay would require "300,000 more officials, tax collectors, deputies, etc.," at a cost of "at least \$100,000, possibly \$150,000."⁵⁹ It cited the Lottery as "an ideal tax" for these reasons:

It is voluntary, and no one need pay it who does not care to.

It requires no officers to collect, and not a cent of money—every dollar of the tax goes into the public treasury for the benefit of the State.

It is certain and definite, not dependent on the weather, trade or business, not suffering in drouth, overflow or epidemic.

It is paid promptly—in advance—and without a tedious litigation to insure its collection, and the State knows just how much to expect.

And finally, every cent of it is collected, and there is not a dollar of back taxes left owing.

When Emperor William of Germany announced he had devised a scheme to raise 8,000,000 marks to "be used in the work of combating slavery in Africa," the *Times-Democrat* recalled that "only a short time ago" the French people "authorized the organization of a lottery company to undertake and complete the Panama Canal." The *Times-Democrat* emphasized:⁶⁰

It must appear, therefore, that the best public sentiment of the most civilized nations of Europe not only can see nothing wrong in a lottery in France for the construction

⁵⁷ *Times-Democrat*, September 10, 1890, 4.

⁵⁸ *States*, September 24, 1890, 4.

⁵⁹ *Times-Democrat*, January 4, 1892, 4.

⁶⁰ *Ibid.*, June 26, 1891, 4.

of a canal thousands of miles away, and another in Germany for the benefit of negro cannibals are justifiable and proper, sure no one can say a word against the proposition to obtain by similar means the money required to educate the children of the State and thus protect it against the dangers of illiteracy and ignorance, the money that will keep out the ever threatening river, and that will furnish New Orleans a good drainage and save the hundreds of lives lost annually from the dangerous, undrained condition of this city and the bad health that naturally comes from it.

Answering the argument that poor educational facilities were keeping immigrants from the state, the *New Delta* printed figures from January 1, 1888, to July 1, 1890, which showed a new immigration of 9,082 of which 4,791⁶¹ came from Italy alone. Another thousand Italians arrived in October of 1890.

The *New Delta* said that there were two ways to build up a state, "by aid from abroad—by immigration and by the investment of capital from other States and countries."⁶² The *New Delta* added that gambling would keep immigrants away and in any event would lure undesirable citizens to the state's boundaries. It said the Lottery (to use the language of the Supreme Court) was "a plunderer of the ignorant and the simple." The *New Delta* asked, would the lottery "business man" send "his money to be invested in a State which bore such a reputation abroad?"

The Democratic Anti-Lottery State Executive Committee issued a statement which declared that the state was on a sound financial basis. It said that the assessed value of property had increased from \$158,587,195 in 1878 to \$226,392,288 (omitting the \$10,000,000 invested in industries exempt under the Constitution of 1879) in 1889.⁶³ The statement pointed to better financial conditions in 1890 than the state had experienced in a number of years. The bonded debt of the parishes had decreased 90 per cent and the aggregate floating debt dropped 83 per cent during the previous decade. Railroad mileage had jumped from 625 in 1880 to 1647 in 1889.⁶⁴

⁶¹ *New Delta*, October 29, 1890, 2.

⁶² *Ibid.*, June 27, 1891, 4.

⁶³ *Ibid.*, October 3, 1890, 2.

⁶⁴ *Idem.*

Charges of Corruption

One of the many subjects of controversy was whether or not the Lottery was a fraudulent and corrupt corporation.

The *New Delta* pointed to Article 245 of the Constitution which provided for the inspection of the Company records and recalled that in 1890, the firm denied such a demand. It also pointed to the defeated amendment offered by Senator Vance to provide for such an official inspection. The *New Delta* asked, "Why was the lottery unwilling that the governor or attorney general or the committees of the Legislature should get a look at its affairs?"⁶⁵

The *New Delta* said that the Lottery was a fraud because it did not even distribute as much as fifty per cent of what it took in in prizes. It further said that when it was announced by an afternoon paper in New Orleans that "Wolf P. Harriman of Pomona, California, drew \$5,000 in the Louisiana State Lottery," the *Pomona Progress* declared that there was no such person living there.⁶⁶

One of the most damaging blows to the Lottery's claim to honesty was played up by the *New Delta* when Ambrose Smith, "in his capacity of tutor of his minor children, went to the office of the Louisiana State Lottery Company" to collect dividends. He was shown a resolution which he had to agree to before signing the dividend receipt book. The *New Delta* reported the resolution was substantially as follows:⁶⁷

That whereas, the Louisiana State Lottery Company had been incorporated in 1868, that the rights under the charter thereof had been transferred to Simmons & Murray and afterwards to John A. Morris and the heirs of Charles T. Howard; that whereas, under such administration certain acts had been done and expenditures made, etc., be it resolved that the undersigned stockholders do hereby assent to, sanction and ratify the administration of said company or contractors, and do hereby release, waive, relinquish and give up all and any rights, claim or demand whatsoever against said company or contractors arising out of said administration or by reason of said expenditures, and do hereby agree to direct and command that all vouchers for said expenditures be destroyed.

⁶⁵ *Ibid.*, June 2, 1891, 4.

⁶⁶ *Ibid.*, September 26, 1890, 2.

⁶⁷ *Ibid.*, January 25, 1891, 2.

Smith refused to sign and was denied the right to secure a copy of the resolution. He promised to proceed judicially against the Company.

The *New Delta* declared:⁶⁸

There must be some reason for all this. . . .

It is no secret that ugly reports have been circulated over the entire State in reference to the improper use of money in the lottery matter. Ugly charges have been made, ugly stories have been told, ugly ideas have been formed. The best way to refute them, the best way to show their groundlessness, the best way to cover with confusion the men who started and those who circulated them, would be to exhibit those vouchers to the world and thereby show that not one dollar was used to pay salaries to men in high places, to subsidize the press and to corrupt legislators. The best way to show that the lottery managers had done nothing of the sort would be to exhibit those vouchers to the whole world. And such being the case, to prove their innocence these managers promptly come forward and ask for permission to—destroy the conclusive evidence of their own innocence.

After waiting three days for "some explanation of the most extraordinary paper which the Louisiana Lottery Company presented," the *New Delta* charged, "The request for authority to destroy the vouchers is the most conclusive piece of evidence yet adduced against the lottery, and it is furnished by the lottery itself."⁶⁹

During the campaign, many of the old charges of bribery, corruption and interference in state and national politics were repeated again and again by the *New Delta* and its anti-lottery contemporaries. The Lottery press declared that the two occasions when it participated in politics were to spend \$40,000 to aid in the restoration of white control in the state and to contribute to the Nicholls campaign fund in 1888 at the solicitation of the campaign committee.⁷⁰

Meanwhile, the decisive fight growing out of the enacting of anti-lottery postal legislation by Congress was moving slowly to a denouement that would deliver the death blow to the last and the most spectacular of the lotteries of the United States.

⁶⁸ *Ibid.*, January 26, 1891, 4.

⁶⁹ *Ibid.*, January 28, 1891, 4.

⁷⁰ *States*, July 29, 1890, 4; *Times-Democrat*, August 6, 1890, 4.

CHAPTER XI

POSTAL LAW DELIVERS DEATH BLOW TO LOTTERY

After the Louisiana General Assembly voted to submit the rechartering of the Louisiana State Lottery Company in the form of a revenue amendment, public opinion throughout the nation surged forth to demand that the Federal Government deny it the use of the mails. To these protests were added those of foes in Louisiana.

Since the late seventies, when the Republicans no longer looked to the Lottery as part of the political picture to hold Louisiana in the Republican column, the Post Office Department had from time to time cracked down on the Lottery only to cease suddenly as pressure apparently was applied. The Lottery was draining millions of dollars from the states and they no longer intended to permit it. The result was that Congress acted swiftly in reaffirming the right of the Post Office to bar such matter from the mails.

The postal law provoked charges of invasion of states rights and infringement of the freedom of the press.

When the Lottery bill was started through Congress, the New Orleans *Daily States* declared there was "small probability that the bill will pass at this late period of the session, as it is very doubtful whether a majority of members are prepared to vote on a matter of such importance. The bill attacks the press, as it excludes from the mails all newspapers containing lottery advertisements."¹ The *States* was quick to bring forth the cry of infringement on the freedom of the press. It opined that if the "chief lottery" were "in a Northern or Western State the bill would have little support. Should the bill become a law the first attempts to enforce it would be met by numerous injunctions and mandamuses. In the advent of decision adverse to the press, the banks and the lottery, an appeal would be taken to the Supreme Court of the United States."²

The *States* doubted that the bill would seriously affect the corporation and declared:³

We are arguing upon infinitely higher grounds; for the preservation of the rights of the States; for the freedom of

¹ *States*, August 2, 1890, 4.

² *Idem*.

³ *Ibid.*, August 18, 1890, 4.

the press and for the preservation of the great principle, that no man, be he infamous or not, can be deprived of his civil rights, or his property, on the mere suspicion of a Federal official and without judge, jury or trial.

The first two of the three objections outlined early in the fight by the *States* actually formed the main points on which the opposition against the anti-lottery postal bill was waged.

When Congressman Hayes of Iowa presented a strong minority report attacking the constitutionality of the measure, the *Times-Democrat* approved of it and said:⁴

The anti-lottery feeling, however, has been so worked up in the North, charges have been so freely made against anyone who dared to object to this unconstitutional and injurious bill, that Mr. Hayes' objections and arguments were not listened to, and the bill was rushed through (the House) without any discussion of the merits or of its probable defects. . . . The bill is a radical one, dangerous to State rights, giving the Federal government new power which the Constitution never intended it should have. At the very moment when we are fighting so bitterly the attempts of the Republicans to extend their centralizing power, when we are opposing with all the strength we can their attempts to place our elections under Federal control, Democrats are asked to give the Postmaster General the power to absolutely control the mails and to stop circulation of such papers as he does not like. It is a bad time to give the Federal officers greater power than they are entitled to.

Ten days later, the *Times-Democrat* was more hopeful that the Senate would refuse to pass the measure. It said that it had been "Discovered that the bill is a very objectionable one. Even the *New York World* and the *New York Times* who played so important a part in securing its passage, and who advised Congress to rush it through without giving it the proper thought and consideration, are compelled to admit that the bill contains many objectionable features and needs many alterations."⁵ Further it observed, "The chances daily grow stronger that the Senate will refuse to give the Postmaster General such arbitrary powers over the mail."⁶

⁴ *Times-Democrat*, August 18, 1890, 4.

⁵ *Ibid.*, August 28, 1890, 4.

⁶ *Idem.*

When the Senate began to consider the bill, the *Times-Democrat* deplored, "The Senate yielded to popular clamor, just as the House did. . . . There was no discussion. . . ." The editorial declared the President would sign it and pointed out:⁷

There remains one protection for the people against this prying bill—the United States Supreme Court. The case will unquestionably be carried there, and it is to be hoped that the court will protect the people's correspondence against the inquisitorial power granted the Postoffice Department by this bill.

The *New Delta* reprinted an interview given the *New York World* by Attorney-General W. H. H. Miller who, in explaining the reason for excluding lottery ads, said, "If the lottery is an evil, then anything that tends to support and build it up is also an evil."⁸

The *Daily City Item* commented, "The pretense is to get at and punish the lottery, while the effect will be to lay everybody's business under contribution to official and officious scrutiny."⁹

When the bill was finally passed in the Senate, the *Picayune* affirmed:¹⁰

This is an enormous power to confer on any Federal officer, but it has been conferred on one by the votes of Democrats, which is all the more remarkable. Let us grant that connection with a lottery is a grave offense; but it is not more grave than are the crimes of murder, highway robbery and rape, and yet congress has not undertaken to close the mails against murderers, highwaymen and ravishers. They may concoct their crimes through the mails at pleasure, except when they are convicted felons, and so declared by the courts.

The *Times-Democrat* said, "It will be remembered that when the anti-lottery convention met at Baton Rouge, a few weeks ago, it pronounced against this very measure and warned Congress not to pass it, as the convention felt certain that the Lottery Company would easily evade its provisions. For once the Antis were right."¹¹ The *Times-Democrat* declared that the Lottery question was one for the people of Louisiana "to settle; it belongs to them alone, and not to the Federal government."¹²

⁷ *Ibid.*, September 12, 1890, 4.

⁸ *New Delta*, September 12, 1890, 4.

⁹ *Item*, September 16, 1890, 2.

¹⁰ *Picayune*, September 17, 1890, 4.

¹¹ *Times-Democrat*, September 18, 1890, 4.

¹² *Idem*.

The *Item* saw the bill as an effort "to force the people of all the States in the Union to be truly good and pious and square all their lives and their morals according to the strait-laced Wanamaker and Nicholls code of ethics. . . ." ¹³ It warned that the act carried "more danger to the people of the South than any political force bill that has ever yet been proposed." The *Item* further saw it as a "precedent" by which mail "not pleasing to any political or religious denomination" could be excluded. It declared: ¹⁴

The Constitution deals strictly with physical and material things, leaving the morals and purely speculative "to the States or the people." But Congress has become "paternal" far beyond the expectations of the most ultra and pronounced Federalists of the earlier years of the Republic.

In comparison to the other papers, the *New Delta*, far from being alarmed, was highly elated and saw the law only as a "bill prohibiting the use of the United States mails to the lottery in any way, shape or form, and under any pretext, cover or subterfuge. . . ." ¹⁵ It said:

It not only prohibits the use of the mails to the lottery company itself, but shuts out from their use any person, firm or corporation which advertises or suffers itself to be advertised as the agent of the lottery.

The newspapers, too, that have been displaying half and full page and column advertisements of the lottery and its drawings, and reflecting the same advertisements in their editorial columns, will be confined in their efforts to corrupt public sentiment, to such persons as they may be able to reach through the newsboys—the government will no longer admit them to the mail bags. They will be compelled either to drop the lottery advertisements or else curtail their subscription lists.

One good result of this will be that money now received *ostensibly* for advertising will no longer have that shield to cover itself with, but will have to be *received* for the same purpose for which it is actually *paid*. In short, money paid for editorial opinion can no longer be credited in the advertising book.

¹³ *Item*, September 18, 1890, 2.

¹⁴ *Idem*.

¹⁵ *New Delta*, September 17, 1890, 2.

The *New Delta* was optimistic as it predicted, "This bill is but the forerunner of an amendment to the constitution of the United States abolishing and prohibiting lotteries, as it abolished and prohibited slavery." The editorial declared that the law would not "remain a dead letter" as the anti-lottery organization would see that it was enforced in New Orleans.¹⁶

Benham's Battery in New Orleans fired a salute of 100 guns in recognition of the passage of the anti-lottery postal bill. A number of towns throughout the state also fired salutes.¹⁷ The President quickly signed the anti-lottery measure on September 19.¹⁸

Immediately the Lottery papers began to publish two editions, omitting the Lottery advertisements in the mail editions. The *New Delta* pointed out that such a practice would result in violation of the law, especially when a reader mailed a copy containing the advertisement.¹⁹ Weeklies that had already printed part of their weekly edition containing the advertisements were denied the privilege of sending them through the mail by the Postmaster General.

The New Orleans postmaster reported that for three months, the Lottery Company had been reducing its postal business in expectation of what was coming. The *Times-Democrat* affirmed:²⁰

This is the case. The company took the necessary steps to prepare for the law some time ago, and was thoroughly prepared for it when it passed Congress.

It will transact its business in the future through the express companies instead of through the mails, getting, as everybody can testify who has had any experience in this matter, much better service than hitherto. The mail service is simpler and cheaper, and for that reason has been heretofore used; but the express service is far more reliable, being free from the large stealages which are so frequent on the postal routes.

The *Times-Democrat* further assured that "Customers of the company will find the new arrangements more satisfactory, as they will know where to look in case their remittances are

¹⁶ *Idem*.

¹⁷ *Ibid.*, 1.

¹⁸ *Ibid.*, September 20, 1890, 2.

¹⁹ *Ibid.*, September 24, 1890, 2.

²⁰ *Times-Democrat*, September 22, 1890, 4.

lost." As for the omission of the advertisements in the mail editions, the editorial said that formed "but a small part of its circulation."²¹

Apparently the Company moved to send in information from outside of the United States. A dispatch to the *New Delta* said that the Lottery had been quietly negotiating to buy a Montreal newspaper.²² The plan was reported brought to an end when it became known that the Attorney-General's office was preparing an opinion that would exclude foreign mail circulating lottery information.²³

Naturally there was considerable objection to the drastic postal measure, even by anti-lottery publications. The *Times-Democrat* commented frequently on those objections. One editorial said:²⁴

The *Bienville News* is an earnest and vigorous opponent of the lottery; but, like the *Baton Rouge Truth* and other reputable and anti journals, it cannot "swallow" the anti-lottery bill passed by Congress.

The *New Delta* charged that the Lottery papers were printing garbled extracts from the *New York World*, an anti-lottery paper which was highly influential in securing the adverse postal legislation. The garbled accounts, the *New Delta* asserted, tended to indicate that the *World* regretted the passing of the law.²⁵

The *Item* declared that the law gave the Postmaster-General judicial functions and "despotic power to enforce his decisions, whether they are right or wrong; whether founded on facts and sustained by common sense or on the suggestions of fad and fancy and dependent upon fanaticism for vitality."²⁶ The *Item* said, "To concede to Congress this mode of correcting the faults of the people, is to surrender the last vestige of home rule, and constitutes every petty postmaster a pashaw, under the Grand Seigneur who nominally presides over the Postoffice Department

²¹ *Idem.*

²² *Ibid.*, September 25, 1890, 1.

²³ *Ibid.*, September 26, 1890, 1.

²⁴ *Ibid.*, September 28, 1890, 4.

²⁵ *New Delta*, September 27, 1890, 2.

²⁶ *Item*, September 28, 1890, 2.

at Washington."²⁷ It quoted the *New York Sun* as saying, "We have too much paternal government already, and Mr. Anthony Comstock is too much of a Grand Inquisitor."²⁸

The day the President signed the anti-lottery postal measure, the *States*, whose editors were Dupré and Hearsey who fought the Lottery in the *Democrat*, announced that it would begin printing the Lottery advertisements because it considered the law unfair. It said:²⁹

The *States*, until this day, had never held any relations whatever with this Louisiana State Lottery.

Our columns never contained its advertisements, even after we had determined to advocate the extension of its charter conditioned upon the payment of a high license to the State of Louisiana. . . .

The editorial then quoted *ex parte* Jackson as part of its argument against the new law and accordingly ran the advertisements in defiance of the act. It concluded:

Congress then, and Boodle Harrison, Cheap Jack Wana-maker, and the un-Democratic Anti-Lottery League of Louisiana, may ultimately see their law affirmed by the Supreme Court, but the Louisiana State Lottery will flourish still, and its advertisements shall appear in the *States*, because the same Supreme Court has pointed out the way and the right of it.

Ten days later, the *States* carried a story that the September 27 edition of the paper had been barred from the mails.³⁰ The edition barred carried an attack on former Governor Warmoth, so the headline and the story credited that as being the reason for the "suppression." In the space where the Lottery advertisement appeared, the following matter was displayed:³¹

Lottery advertisements excluded from this space in obedience to the law of Congress recently passed. For copies of the *Daily States* containing lottery advertisements apply to express agents everywhere.

Following that were favorable extracts from the Supreme Court decision in the case of *ex parte* Jackson (92 U. S. Reports).

²⁷ *Idem*.

²⁸ *Idem*.

²⁹ *States*, September 19, 1890, 4.

³⁰ *Ibid.*, September 29, 1890, 2; *New Delta*, September 29, 1890, 1.

³¹ *States*, September 29, 1890, 2.

In an editorial entitled, "The Postal Star Chamber," the *States* printed the following paragraph in large italic type:³²

We call the attention of the country to the fact that Postmaster Eaton did not exercise the autocratic and irresponsible power placed at the disposal of the Postoffice Department for the purpose of suppressing an immoral lottery advertisement, but his action was solely for the purpose of suppressing an attack upon, and exposure of, a Republican candidate for Congress in a Democratic newspaper.

The *States* then reprinted the article which was in the issue that was barred from the mails. One of the statements in that editorially declared, "Warmoth, as everybody knows, was even a thrifty thief." The *States* stressed the fact that it was not notified of the action of the postmaster.

The *States*, like other papers did from time to time during the fight, compared the Lottery issue to prohibition and said of prohibitionists:³³

... they have never called on Congress to exclude from the mails all advertisements of distillers, wholesale liquor merchants, wine importers and saloon keepers. Abuse of intoxicants leads to many evils. Even the abuse of tobacco is not free from injurious effects, but the intervention of Congress has not been called for to deprive either buyers or sellers of either spirits or tobacco of the use of the mails.

Protests against the new infringement of the rights of the press are many and emphatic, even among those who have provoked it by their zealous enmity to the lottery. Even those who recognize the newly manufactured prejudice against it and its consequent unpopularity, do not hesitate to deplore the anti-lottery bill as a precedent laden with danger. Its unjust bearing upon a particular business is but a trifle in comparison with the stab it gives to the liberty of the press.

The opinion prepared on the postal law by Assistant Attorney-General Tyner ruled that foreign papers, pamphlets and publications of all kinds were to be treated as if printed within the United States. The order said:³⁴

The term "lottery" as used in this act embraces all kinds of schemes, general or local, for the distribution of prizes by

³² *Ibid.*, September 30, 1890, 4.

³³ *Ibid.*, October 1, 1890, 1.

³⁴ *New Delta*, October 4, 1890, 1.

lottery or chance, such as gift exhibitions, enterprises, concerts, raffles, or the drawing of prizes in money or property at fairs. Hence, letters, postal cards and circulars containing advertisements are unmailable.

The *Item* compared the Anti-lottery act to the Sunday law. It declared that Congress branded as "immoral" "the country agricultural fair, the church grab-bag, or the . . . raffle for a silver watch for the benefit of a poor widow . . . and many other innocent, charitable and honest enterprises."³⁵ The *Item* said that just as juries refused to convict under the Sunday law, neither would they observe the postal law on lotteries.

The *States* saw the act as a "grosser outrage upon personal liberty and the freedom of the press" and even more objectionable than the Alien and Sedition laws which "caused the American people to rise and, not only sweep the Federalist party from power, but to utterly exterminate and make its very name forever infamous."³⁶ In the same editorial, the *States* quoted the *Houston Post* as pointing out, "The government that attempts to establish either wealth or morality by 'due process of law' mistakes its function and inevitably ends in failure."

The *Times-Democrat* printed a comment of the *Detroit Free Press* which said:³⁷

There is not the slightest necessity for tinkering the Constitution of the United States to deal with such an evil as this. There is, on the other hand, every reason why the United States should keep within its legitimate prerogatives and allow the States to manage their own affairs and punish their own offenders.

While the pro-lottery publications were crying "States rights," the *New Delta* observed:³⁸

The lottery is about to get a dose of States right, about which its hirelings have been shrieking since the passage of the anti-lottery postal bill. . . . they are about to experience the exercise of a right of a State, in fact forty-two of them, to have its laws respected and obeyed within its own borders. . . . Other steps are to be taken that will cripple the monster so that we may slay it. The other States will cut off its supplies, will stop the flow of money which is being used

³⁵ *Item*, October 4, 1890, 2.

³⁶ *States*, October 7, 1890, 4.

³⁷ *Times-Democrat*, December 17, 1890, 4.

³⁸ *New Delta*, October 9, 1890, 2.

against us, and will bring starvation to aid us in our battle against this foe of mankind. Not only will we make a re-charter an impossibility but we will render the three remaining years of the present one useless to these gamblers.

Many of the states took immediate action. The Governor of Michigan ordered the strict enforcement of the lottery laws.³⁹ The attorney-general of Illinois proposed to proceed against express companies if they transported lottery matter.⁴⁰ Canada joined the United States in suppressing lottery matter, a dispatch from Ottawa, Canada, to the *New Delta* stated.⁴¹

The first affidavit of violation of the Act was sworn to by Inspector W. T. Sullivan in the Eastern District of Louisiana, City of New Orleans. Sullivan swore that J. Pickney Smith, business manager, knowingly mailed to Waco, Texas, on September 27, 1890, copies of the *States* containing Lottery advertisements.⁴² Smith surrendered November 10, 1890, to United States Commissioner Wright for violating the anti-lottery postal law.⁴³

A special to the Chicago *Inter-Ocean* quoted Section 3993 of the *Revised Statutes* which gave the Postmaster General the power to suspend express and common carrier companies along mail routes "when the public interest may require such suspension."⁴⁴ That gave the government power to prevent express companies from carrying lottery material. The express companies were quick to take a stand so as not to incriminate themselves.

T. H. Walker, general superintendent of the United States Express Company at Cincinnati, Ohio, issued an order instructing agents, "to decline all money shipments to M. A. Dauphin, Louisiana Lottery, the Mexican lottery and any other lottery."⁴⁵

The board of the Adams Express Company met in New York November 12, 1890, and adopted a resolution prohibiting employees handling matter from lotteries.⁴⁶

³⁹ *Idem.*

⁴⁰ *Idem.*

⁴¹ *Ibid.*, November 2, 1890, 1.

⁴² *Ibid.*, November 13, 1890, 1.

⁴³ *Ibid.*, November 6, 1890, 1.

⁴⁴ *Ibid.*, October 16, 1890, 2.

⁴⁵ *Ibid.*, October 29, 1890, 1.

⁴⁶ *Ibid.*, November 13, 1890, 1.

The *New Delta* was elated at the action of the Adams Express Company and was quick to compare its response to public opinion as compared to the reaction of the Lottery Company. The *New Delta* noted:⁴⁷

The lottery has at last found that all corporations are not like unto it; that a decent regard for public opinion may actuate an incorporated body; that some people look at the source from which their profits come.

The circle is gradually closing in on this doomed corporation. One by one its avenues of communication with the outside world are being closed. . . . Week by week the lottery stock had dropped in value on the exchange, until now it ranks, we are informed, with stocks, which are refused by banks as collateral.

The *Chicago Tribune* declared, "It will be joyful news to all right-minded persons throughout the country that the Louisiana Lottery is in a moribund condition. . . . Before the postal law was passed the Louisiana Lottery Company stock was worth \$1,400 a share, but now it goes begging at \$400."⁴⁸ The Lottery business fell off heavily following the action of the express companies in refusing Lottery matter. The President in his message in November pointed out that "already the public mails have been largely freed from the fraudulent and demoralizing appeals and literature emanating from the lottery companies."⁴⁹

To add further to the Lottery plight, the heirs of Isaac Bernstein filed suit against John A. Morris in November of 1890 in the United States Circuit Court asking an account of the moneys and property, estimated from \$2,000,000 to \$6,000,000. One of the defense lawyers was Francis Lynde Stetson of Grover Cleveland's firm. During the questioning it was revealed that Morris always regarded Throgg's Neck in New Jersey as his legal residence and that he had never voted.⁵⁰ The *New Delta* declared, "Here is your 'original States right Democrat of the old school,' who never gave a vote in support of the party to which he was so deeply attached, so ardently devoted as he pre-

⁴⁷ *Ibid.*, November 14, 1890, 2.

⁴⁸ *Ibid.*, November 28, 1890, 2.

⁴⁹ *Ibid.*, December 1, 1890, 1.

⁵⁰ *Ibid.*, November 27, 1890, 1.

Lynde

tended. . . ."⁵¹ The *New Delta* also reminded its readers that Northern papers had published that Morris contributed \$300,000 "to swell the tide of corruption fund under which Democracy was overwhelmed."

The *Times-Democrat* complained that *Frank Leslie's Illustrated Newspaper* and *Judge*, among whose proprietors was Russell B. Harrison, son of the president, carried an advertisement of a German lottery. The paper said that young Russell's Helena, Montana, paper carried American and Mexican lottery advertisements.⁵² The *States* chided the *Atlanta Constitution* for purging "its columns of the advertisements of the Louisiana and Mexican lotteries," and then being thrown out the mails because of its scheme of "Christmas Gift Enterprise."⁵³

The Lottery papers complained many times about the poor mail service that was being given. Editorials declared that the papers were being delayed, that letters were tampered with and that Louisiana "breaks the record for the slowest and worst mail service in the Union."⁵⁴ When the Post Office Department was considering extending the free delivery service to smaller towns, the *Times-Democrat* objected, saying, "Let the Post Office Department begin by correcting the mail deficiencies in the South and then extend the free delivery system to the smaller towns and villages."⁵⁵ From time to time, pro-lottery publications mentioned instances of poor service and "overzealous" postmasters.⁵⁶

After the Louisiana General Assembly had adjourned, Secretary of State L. F. Mason refused to promulgate the Lottery revenue amendment of the grounds of irregularities. In the case of State of Louisiana *ex rel.* Jno. A. Morris vs. L. F. Mason, mandamus proceedings were filed to secure the promulgation of the act.

The writ was granted after it reached the Louisiana Supreme Court with Chief Justice Bermudez, Justices Watkins and McEnery concurring while Justices Fenner and Breaux dissented.

⁵¹ *Ibid.*, 2.

⁵² *Times-Democrat*, October 11, 1890, 4.

⁵³ *States*, October 10, 1890, 4.

⁵⁴ *Times-Democrat*, March 25, 1891, 4.

⁵⁵ *Ibid.*, April 6, 1891, 4.

⁵⁶ *Ibid.*, July 28, 1891, 4; August 18, 1891, 4; November 18, 1891, 4; February 25, 1891, 4; May 15, 1891, 4; May 16, 1891, 4; *Picayune*, May 15, 1891, 4, and others.

In commenting on the favorable decision, the *Picayune* took an opportunity to repeat that it favored the people passing on the issue, and stated:⁵⁷

The *Picayune's* position on the question had all along been conscientious, conservative and consistent. The Lottery Company has its own newspaper and the anti-lottery people have theirs. The *Picayune* belongs to no league nor association. It will continue to hold its purpose and opinions—with a view of securing the best interests of the State—without fear or favor. As a matter of fact, the *Picayune* is opposed to all lotteries, for any purpose.

The *Times-Democrat* called the opinions of Justices Watkins and McEnery "able arguments" and that of the Chief Justice "forceful and so beautiful. . . ."⁵⁸ The *New Delta* moaned, "The Supreme Court of Louisiana (always excepting the two dissenting justices) has endorsed the lottery as a moral concern (for that was one point made before it) and the lottery is simply working it for what it is worth."⁵⁹ The *New Delta* reported:⁶⁰

The lottery newspapers are getting out special editions containing the decisions of the Supreme Court, running into the thousands, and it is no secret that lottery money is paying for them, and that they are being sent out by the tons. . . .; in fact *twenty-five tons* of these papers have been seized for an attempt to send them through the mails at a lower rate of postage than the law allows. We suppose we shall now hear a howl about "the infringement of the liberty of the press. . . ."

For these papers so sent out are nothing but lottery advertisements and they are sent out by the lottery company as such. It is a humiliating fact that an opinion and decree of the highest court of our state is a lottery advertisement of such value that that concern will pay for the printing and distribution of twenty-five tons of it.

The state sought a rehearing in the mandamus case but was unsuccessful and the amendment was promulgated as ordered by the State Supreme Court.

George W. Dupré of the *States* was arrested February 13, 1891, for sending a paper containing a Lottery advertisement

⁵⁷ *Picayune*, April 28, 1891, 4.

⁵⁸ *Times-Democrat*, April 28, 1891, 4.

⁵⁹ *New Delta*, May 7, 1891, 4.

⁶⁰ *Idem*.

through the mails. The *Times-Democrat* declared, "It (the Lottery law) is undemocratic, unrepublican, against American institutions, which never contemplated spying into the mails and we believe that it is unconstitutional."⁶¹ Dupré and John S. Rapier of the *Mobile Register*, who was arrested for the same offense, applied to the United States Supreme Court for writs of *habeas corpus* and *certiorari* on March 2.⁶² The cases were postponed at the April session to be heard in October.⁶³

The *New Delta* said that the *habeas corpus* writ before the Supreme Court did not involve a new question as that one had been settled in 1877 in the case of "one Jackson."⁶⁴ The *New Delta* further said:

It is somewhat remarkable that during the discussion of this bill in the last Congress no serious argument was made on its unconstitutionality. The lottery no doubt had its henchmen in that body. There were men on the floors of both houses that would have eagerly grasped the opportunity to kill this measure on constitutional grounds for an assault on that line. There were scores of constitutional lawyers in that body, but they failed to raise their voices in opposition.

The *Picayune* saw the two cases as "of unusual importance to the fraternity of Journalism the world over." It said, "This law is aimed directly at the power and liberty of the press."⁶⁵

The *Times-Democrat* took occasion to review briefly the history of the fight of freedom of the press. It concluded:⁶⁶

At the time of the adoption of the First Amendment, the meaning of the term "freedom of speech or of the press" was that every citizen of the United States had the right to speak, write or publish whatever he pleased, free from all restraint, save that imposed by the law of libel, under which he could demand that the criminality of the subject-matter of his utterance should be inquired into and passed upon by a jury of his peers, as the sole and only tribunal that could consider the question at all.

⁶¹ *Times-Democrat*, February 14, 1891, 4.

⁶² *Ibid.*, March 3, 1891, 2.

⁶³ *Ibid.*, April 28, 1891, 8.

⁶⁴ *New Delta*, April 21, 1891, 4.

⁶⁵ *Picayune*, April 26, 1891, 4.

⁶⁶ *Times-Democrat*, April 20, 1891, 4.

The *New Delta's* conception of freedom of the press makes an interesting comparison to that of the *Times-Democrat*. The *New Delta* said:⁶⁷

As long as the press is uncorrupted and free the liberties of the people are safe. But with a chained and enslaved press, with the voice of the sentinel silenced, or, worse, raised only to betray those over whom it is supposed to keep watch and ward, then indeed, are the people in danger. A free press is one that is at perfect liberty to express itself upon any side of any question affecting the public welfare. It is one that is under no obligations to any man or set of men.

Can any lottery paper in the State of Louisiana honestly and truthfully declare that it is in that condition? Can anyone of them open their money drawer without having the dollars of the lottery company staring them in the face? . . . There is not one in the whole gang that has not "seen" the lottery magnates before it espoused the lottery side. There is not one that is not advocating the revenue amendment for "revenue" reasons. Their opinions, that the lottery proposition should be adopted because it is good for the State are paid for. Their advice to the voter to cast his ballot in favor of the lottery is given in return for lottery dollars.

This is our "free" press in Louisiana.

To the charges that papers carrying Lottery advertisements were subsidized, the *Times-Democrat* said it considered that advertising was legitimate and no more of a subsidy than the advertising being run in anti-lottery organs by corporations interested in seeing the Louisiana State Lottery Company overthrown.⁶⁸

The *Times-Democrat* reported that many of the former anti-lottery papers had changed their attitude. The Alabama Press Association actually adopted a resolution calling the postal law "censorship in its most objectionable form, and therefore, an invasion of the freedom of the press solemnly guaranteed in this country by the bill of rights of the Constitution."⁶⁹

The Anti-Lottery League went on record in June, 1891, as regretting "the action of so large a part of the press of our State in supporting the lottery, as against the universal sentiment of

⁶⁷ *New Delta*, June 30, 1891, 4.

⁶⁸ *Times-Democrat*, July 19, 1891, 4.

⁶⁹ *Ibid.*, July 13, 1891, 4.

the press in our sister States, and we furthermore desire to commend the action of such newspapers in our State as have stood fire in their opposition to this gambling."⁷⁰

Paul Conrad, M. P. Arnault, Joseph R. Horner, P. Felix Herwig, Joseph L. Herwig, W. Valetton, P. L. Herwig, L. Poche, J. E. Brulatour, P. Voochries and A. J. Bachemin, described by the *Times-Democrat* as a "number of prominent citizens of New Orleans," pleaded not guilty of violating the anti-lottery postal law in Sioux Falls, S. D., when arraigned before Judge Billings in New Orleans.⁷¹ Others indicted were Morris, Chapman H. Hyams, Frank T. Howard and Paul O. Fazende. The *Times-Democrat* offered the interesting comparison of the act to Russia where they "tear a man from his home and carry him 1500 miles or more away for trial, and occasionally he is carried to Siberia without even this formality. . . ."⁷²

The *Times-Democrat* reported that the postal law was being used only against the Louisiana Lottery while others were flourishing. It said the Mexican, Havana and Irish lottery tickets were being circulated.⁷³ The *Daily City Item* estimated "the aggregate sale of tickets in all the foreign concerns" for the month of December, 1890 in New Orleans "at a quarter of a million dollars." It reported the lotteries doing business as the Nacional of Madrid, the Royal Havana, three Mexican lotteries, "the well known 'Beneficencia' (in which so many Antis are interested); the 'Juarez' and the 'Little Mexican,' " the Little Louisiana, the Louisiana State Loan and Trust, two Chinese policy lotteries, the Regno D'Italia Lotteria Nazionale, and the Pensacola, Florida, lottery.⁷⁴

The Supreme Court of the United States ruled the anti-lottery postal law was constitutional on February 1, 1892. The *Picayune* declared the decision "is vastly more far-reaching than the interstate commerce act, which only proposes to regulate communication. The anti-lottery law regulates transportation by mail in the limits of each State." The editorial continued:⁷⁵

As such it is an enormous step towards the centralization of power and the dethronement of State's rights. As this

⁷⁰ *New Delta*, June 22, 1891, 4.

⁷¹ *Times-Democrat*, November 27, 1891, 4.

⁷² *Ibid.*

⁷³ *Ibid.*, January 25, 1892, 4.

⁷⁴ *Item*, January 7, 1892, 1.

⁷⁵ *Picayune*, February 2, 1892, 4.

law was enacted by a vast majority of both Democrats and Republicans in Congress, it marks the growing desire of the people of all sections to build up a great and dominating national power. It is a remarkable exhibition of a particular sort of progress by the American people.

Downcast, the *Times-Democrat* registered keen disappointment at the blow as it declared, "States rights, in the light of the constitutionality of the anti-lottery postal law decided yesterday by the United States Supreme Court, are practically a possession of the past."⁷⁶ Bitterly, it assailed the law as "the entering wedge of Federal interference with the internal administration of States, and points at no distant date to the destruction of all States rights." It lashed out at "the invitation of a few degenerate sons of Louisiana" that led to the interference.

The *Item* likewise saw the decision as a body blow to states rights as it declared, "If there are any friends of State rights left in the South it is time they were up and doing. The enemy has carried the outer works, and unless he can be repulsed we shall have a centralized despotism enthroned in the citadel of liberty."⁷⁷ The *Item* took exception to Chief Justice Fuller's contention that freedom of the press had not been infringed. It said, "Chief Justice Fuller would admit the newspapers that had nothing in it; but let an idea crop out that does not suit the faction dominant for the time being, and straightway the concern is dumped into the universal limbo established to quarantine 'crime and immoralities,' all conventional offenses differing in degree in the several States."⁷⁸

The decision was brief, as the Chief Justice explained the preparation of the opinion had been committed to Justice Bradley who had died. The Court quoted *ex parte* Jackson in regard to post offices and post roads. It ruled that Congress had the power to rule as it did on the matter and therefore the law was constitutional. The opinion said that mail did not have to be furnished "for every purpose." As for the freedom of the press, the court said:⁷⁹

We cannot regard the right to operate a lottery as fundamental right infringed by the legislation in question, nor are we able to see that Congress can be held in its enact-

⁷⁶ *Times-Democrat*, February 2, 1892, 4.

⁷⁷ *Item*, February 2, 1892, 2.

⁷⁸ *Idem*.

⁷⁹ *Times-Democrat*, February 2, 1892, 1.

ments to have abridged the freedom of the press. The circulation of newspapers is not prohibited, but the government declined, in itself, to become an agent in the circulation of printed matter which it regards as injurious to the people. The freedom of communication is not abridged, within the intent and meaning of the constitutional provision, unless Congress is absolutely destitute of any discretion as to what she shall do, or shall be or shall not be carried in the mails and compelled arbitrarily to assist in dissemination of matters condemned by its judgment through the governmental agencies, which it controls. That the power may be abused furnished no grounds for a denial of its existence, if the government is to be maintained at all.

Under the date of February 3, Mr. Morris, in a letter addressed to the people of Louisiana, announced he was withdrawing the offer.⁸⁰ He said that he was assured there would be little opposition to the new charter when he was approached by "prominent Democrats" in the spring of 1888. He said he was led by "eminent and able lawyers" to believe that the Congressional legislation was unconstitutional. Morris asserted, "As the Supreme Court of the United States has decided the anti-lottery postal law to be constitutional, it is my purpose and that of my associates to respect that law, and abstain from violating it in any manner." The letter ended:

Convinced that the granting of another lottery charter in the State would be the cause of continued agitation and discontent upon the part of a number of citizens of Louisiana for the entire period for which such a charter might be granted, we would be unwilling to accept such a charter, even though it were given to us without the payment of one dollar of license tax.

The papers almost universally saw the withdrawal of the offer as effecting harmony within the state Democratic Party. The *Picayune* declared, "all grounds for any discord in the Democratic party of the State will be removed."⁸¹ The *Times-Democrat* expressed "regret" it had been withdrawn to the loss of the "State's immediate well-being and prosperity," and declared, "But the revenue amendment is no longer before the people of

⁸⁰ *Item*, February 4, 1892, 1.

⁸¹ *Picayune*, February 4, 1892, 4.

Louisiana, and there is an end of the matter."⁸² The *Item* in its editorial entitled, "Face the Music," affirmed "the necessity of upholding the Democratic organization," and declared:

The annulment of the proposition, therefore, while bringing the people face to face with the necessity of drawing more heavily upon their individual means for safeguarding against floods, for obliterating the great curse of illiteracy, in providing more amply for the unfortunate, for giving the metropolis that increased health and comfort contingent upon thorough drainage, and various other now unprovided for requirements; yet, on the other hand, assures peace and good government to the States, before threatened by divisions.

The Lottery continued to hold drawings, with the last one being held in December of 1893. After that the Company went to Spanish Honduras from where for several years it operated swift boats to bring the winning numbers to the United States. Finally, the Lottery was hauled into court once more by the government and the Company closed its books.

Even though the Lottery was no longer up for approval after being withdrawn, it was still an issue as the pro-lottery and anti-lottery factions were in the midst of state elections in March and April of 1892. It was not until after the election, that the Lottery was removed from the field of discussion.

CHAPTER XII

LOTTERY ISSUE DIVIDES STATE

When the General Assembly decided to submit the Lottery charter to the voters as a revenue amendment, it put the issue squarely before the people. The result was that two factions entered the field to throw the state into political turmoil, so bitter and heated was the struggle. Doubtless, the state has never seen a fight so relentlessly waged on such a clear-cut issue. The fight divided the Democratic Party and threatened its supremacy established after Reconstruction regulations were lifted by the Federal Government. The blocs were known as the Lottery and Anti-Lottery parties and such they were in reality. While personalities were involved to some extent, each point always boiled down to the ever-looming issue of the Louisiana State Lottery Company.

⁸² *Times-Democrat*, February 4, 1892, 4.

Because of Governor Nicholls' enmity to the Lottery, it was obvious that he would by virtue of his leadership play a leading part in the Anti-Lottery bloc. Sympathetic Lottery papers immediately set about to instill in the minds of the voters that Nicholls on two occasions accepted Lottery funds to further his political career. That was also true of other Anti-Lottery leaders. Let an Anti-Lottery man win a prize, own Lottery stock or benefit from the concern, the Pro-Lottery papers publicized the matter at every opportunity.

The Pro-Lottery publications tried to create contempt for Nicholls by showing that he selfishly accepted funds in a "political dicker, in which the State had no interest, and by which Gov. Nicholls and his office-seeking following were to be advantaged; while on the other hand, the one hundred thousand dollars tendered the Governor and which he indignantly refused to accept for the protection of the levees, was a free gift, unaccompanied by a single stipulation, except that it was to be used for the protection of the vast alluvial lands of the State against the monster flood which was threatening us with wide-spread ruin, pestilence and death."¹ The *Times-Democrat* said that the Nicholls campaign committee was down to four dollars in 1888 when "They wanted money and they wanted it urgently, and the sequel shows they knew where to get it."²

When the *Times-Democrat* began its campaign to show that the Anti-Lotteryites were aligned with Republicans to defeat the Democratic Party, the point proved to be a boomerang as the *New Delta* asserted that all the Anti-Lottery people were Democrats, and asked:³

How does this compare with the lottery and its hirelings and henchmen? Its chosen league, through its president, rules leading Republicans in St. Mary eligible for membership; its chief organ and proprietary paper, the *Times-Democrat*, is owned and controlled by Albert Baldwin and other leading Republicans; its chief beneficiaries are Morris, Herwig, Baldwin, Pinchback and other leading Republicans and negroes; it was chartered by the infamous Republican-negro Legislature of 1868; the bill to recharter it *was voted for by every Republican and negro member of the Legislature in 1890. . . .*

¹ *States*, July 29, 1890, 4.

² *Times-Democrat*, August 6, 1890, 4.

³ *New Delta*, September 27, 1890, 2.

The Lottery backers organized the Progressive League to lead the political fight against the Anti-Lottery League. The Progressive League issued a series of "leaflets" giving the history of lotteries and in general trying to win public favor for the Lottery. The Pro-Lottery organization sent out speakers and financed the Lottery campaign. Of course, the Lottery furnished the funds for the fight.

Another figure in the Lottery fight was Edward Douglas White, then recently elected United States Senator from Louisiana. White attained national prominence for his part in the fight, later becoming Chief Justice of the United States and a favorite son of Louisiana. The *Times-Democrat* charged that despite his denial, he received Lottery money in his campaign for senator and in any event money spent by the Lottery indirectly aided him to win the post of United States Senator⁴

During the early nineties, a popular farm movement called the Farmers' Alliance was growing in the United States. A state organization was perfected in Louisiana and convened at Lafayette for a state-wide assemblage. Prominent Anti-Lotteryites "took advantage of the situation and turned the farmers' meeting into an anti-lottery gathering. . . ."⁵ The national unit of the Farmers' Alliance had already declared its hostility to the Lottery.

The Anti-Lottery League and the farm body drew up a secret pact of alliance. The *Times-Democrat* succeeded in securing "an authentic copy of the hitherto mysterious pact between the Antis and the Farmers' Union. . . ."⁶ Article 5 of the pact recommended "that financial aid be furnished, as the finance committee shall determine, to the campaign committee of the Farmers' Union."⁷ So in return for the Farm Union support, the Anti-Lottery organization was to finance the campaign, the Alliance was to nominate the Governor, with the Lieutenant-Governor being selected by the Anti-Lotteryites. Other positions were to be divided, with the Treasurer and Superintendent of Public Education being named by the farm body and the other bloc naming the Auditor, Secretary of State and Attorney-General.

Papers of Lottery sympathies were most vociferous in labeling the pact "un-Democratic" and declared the Farmers' Alliance

⁴ *Times-Democrat*, July 27, 1890, 4.

⁵ *Ibid.*, August 5, 1891, 8.

⁶ *Ibid.*, August 10, 1891, 4.

⁷ *Idem.*

violated the national platform of the party which pledged to wage a separate fight for power in the states. The *Item* urged the Democrats "to treat the Lafayette compact as an intended fraud and vote for none but tried and true men for delegates to the State Convention."⁸ The tenor of that statement was the same as sounded by the *Picayune*, *Times-Democrat*, and *States*.

The president of the Louisiana Farmers' Alliance was Thomas Scott Adams of Clinton, East Feliciana Parish. Adams was the leader of the farmers and the man whom they expected to bring forth as candidate for governor, while Murphy J. Foster was the candidate espoused by the Anti-Lottery bloc for lieutenant-governor.

At that time, the Democratic Party nominated its candidate at a state convention to which delegates were elected by the various political subdivisions. The *Times-Democrat* pointed to the selection of Adams as political shrewdness on the part of the Anti-Lottery bloc because Adams was not "able to carry his own parish. Thus the 'Antis' would be able to avoid supporting him for Governor as it was apparent he was the Union's choice."⁹

Finally the campaign had definitely narrowed down to Adams and McEnery, a former governor and then a justice of the state supreme court, as gubernatorial candidates.

The Pro-Lottery dailies watched the opposition group closely for signs of disagreement. The *Times-Democrat* forecast that Adams would be asked to step down because he was not well enough known to make a race against McEnery.¹⁰ The following day it published a letter to Adams from T. Sambola Jones of Baton Rouge, praising Adams, yet asking that he withdraw. Adams treasured his fond hopes of the chance to gain the coveted prize of governor, so he stood his ground for the time being.¹¹ The *New Delta* saw the letter only as a private expression without collective significance.¹²

The *Times-Democrat*, in answering a letter as to why Adams was unpopular in New Orleans, explained that his election on

⁸ *Item*, September 6, 1891, 2.

⁹ *Ibid.*, September 25, 1891, 4.

¹⁰ *Ibid.*, October 30, 1891, 4.

¹¹ *Ibid.*, November 1, 1891, 4; *Picayune*, November 1, 1891, 4.

¹² *New Delta*, November 1, 1891, 4.

the Farmers' Alliance platform adopted at Ocala, Florida, would injure commerce and industry because, "There is, as has already been noticed, a large element of Socialism in these demands."¹³

As the election of delegates continued the four Pro-Lottery dailies predicted victory while the *New Delta* foresaw the Anti-Lottery bloc in control of the convention to convene December 16, 1891, at Baton Rouge.

When the convention committee convened at Baton Rouge, no definite meeting place had been designated. The two blocs held parleys on the eve of the convention opening and the next day met in different buildings to nominate candidates. Adams was nominated as scheduled and then immediately arose and declined, after which Murphy J. Foster was named. Adams became the candidate for secretary of state. The other group nominated S. D. McEnery for governor, and R. C. Wickliffe for lieutenant-governor. Both McEnery and Wickliffe were former governors. Throughout the campaign, each side said the other bolted the regular convention meeting place.

In February, as already seen, the Lottery offer was withdrawn. The Pro-Lottery papers called on the anti-lottery candidates to withdraw from the race since they had told the people that their only object in running was to defeat the Lottery. Of course, the Anti-Lottery wing declined.

Leon Jastremski, editor of the weekly *Louisiana Review* and chairman of the McEnery Democratic State Central Committee, sent a letter to T. S. Wilkinson, chairman of the Foster committee, suggesting a joint convention to select one ticket with members of the present tickets withdrawing.¹⁴ The Foster committee declined the offer and offered counter proposals which were in turn rejected. Finally, the two groups did agree on a Democratic primary for March 22, 1892,¹⁵ with all ballots being marked "against" the Lottery amendment. The Louisiana press was elated that the agreement assured the Democrats of continued supremacy.

The March 22, 1892, election, judging from the controversy that followed, was marked by considerable tampering with the polls. McEnery men pointed to a victory by 45,547 to 42,728 and

¹³ *Times-Democrat*, November 9, 1891, 4.

¹⁴ *Louisiana Review*, February 17, 1892, 4.

¹⁵ *Ibid.*, February 24, 1892, 4.

Foster men asserted they won by 43,602 to 43,053 votes.¹⁶ After still more bickering and with agreement out of the question, the two tickets entered the general primary of April 19 to settle the dispute. The outcome of that was Foster 79,388, McEnery, 47,037.¹⁷

The outcome of the election assured that the Louisiana State Lottery Company was to face unsympathetic state officials who had been selected expressly on a platform to eject it from the state's boundaries. Another result of the election was a movement that was launched to revamp the state's election machinery so as to assure honest elections by the Australian ballot system. But, above all, public opinion in Louisiana as manifested in ballots decreed for the first time that the Lottery must go.

CHAPTER XIII

CONCLUSION

Though conceived of motives designed to reap public benefit, the Louisiana State Lottery Company was born and existed by corruption. The General Assembly of 1868 was not selected by unbridled public opinion. Further, the monopoly was nurtured through its infancy by a government installed through power from without the state. It flourished as the Democrats and Republicans maneuvered for supremacy which came to the Democrats only after armed conflict.

In return for pecuniary support and change in allegiance, the Lottery was accepted by the Democrats when they came into power. The *Democrat* alone seemed to oppose. The fight of the *Democrat* was rightly compared to the victory of the *New York Times* over the Tweed ring, but the sweetness of victory was snatched away. Because the *Democrat* risked a break with the Democratic Party leaders, the Lottery was successful in undermining its financial structure and, by securing control of it, in silencing the only major voice of opposition.

With the convening of the constitutional convention which the *Democrat* single handed forced the party to call, the Lottery forces combined with other ring lobbies in order to protect their interests. The result of that was the sanctioning of the Lottery

¹⁶ Chambers, *op. cit.*, I, 709.

¹⁷ *Idem.*

by the organic law of the state, provided it renounced its monopolistic feature, which it never did. Of course the people would not reject the new constitution in order to eliminate the Lottery. Therefore, the Lottery issue was not actually voted upon, although the Company advertised that it was the only lottery ever approved by the people.

During the last quarter of the nineteenth century, the nation was imbued with a moral crusade led by Anthony Comstock. Press opinion of the country as a whole was decidedly anti-lottery. A. R. Spofford, Librarian of Congress, in a report on "Lotteries in American History" to the American Historical Association in 1892 gave a penetrating analysis of public opinion and lotteries in the following final paragraph of his study:¹

... it appears to be established that in the earlier ages of the republic lotteries were regarded with general favor, or at least with toleration; that schemes or drawings for public objects were common throughout the country; that lotteries for private gain were very rarely, and in most States never permitted to exist; that even those organized for public improvements produced trifling pecuniary results to the objects ostensibly aided, while drawing from the people heavy sums with no returns save to a very few individuals; that the evils and abuses developed by the system, even when administered under the shield and sanction of the law, led gradually to discredit it profoundly in the public mind; that the change in popular opinion was evinced first, by the enactment of prohibitory laws with fines and forfeitures in all the States, next by criminal statutes, punishing the promoters of lotteries by imprisonment, and finally by making the prohibition of lotteries a part of the constitution in all States except eleven, in which, however, lotteries are prohibited by law, save in three States, where, moreover, they do not exist; and that the experience of the past appears to have crystallized into a general public conviction that lotteries are to be regarded, in direct proportion to their extension, as among the most dangerous and prolific sources of human miseries.

Beyond a doubt, part of the state press was subsidized just as politicians were subsidized. The Lottery was forced to influence the mediums of public opinion in order to continue to exist. The New Orleans daily press approved of the lottery. The *Picayune* denied it was subsidized, declared all lotteries evils, but, nevertheless, favored the rechartering of the institution. Mrs. Nicholson

¹ Spofford, *loc. cit.*, 195.

of the *Picayune* "saw very clearly the great advantage" to declare against the Lottery, but friendship with the Morris family withheld that announcement.² However, the *Picayune* was less partisan than the other papers.

One of the first things the Anti-Lottery League did was to set up the *New Delta* as its daily organ through which to fight the Lottery. In addition to the *New Delta*, 27 other publications were supposed to be opposed to the Lottery. Anti-Lottery League chapters passed resolutions boycotting the *Times-Democrat*, *States*, and *Item*. Obviously, the Louisiana press was preponderately Pro-Lottery.

The decisive blow to the Lottery was the postal law passed at the demand of the national press. Consequently, it was the press of the United States to which most of the credit must go for destroying the Louisiana Lottery Company. However, the minority press in Louisiana was so successfully leading the fight that the Lottery saw it was doomed even within the state, so it withdrew its offer. Had not the Company been pressing a losing fight within the state, it would no doubt have continued to seek a new charter with a view of operating on a state-wide basis. But it knew that with most of its national revenue cut off, it would not continue to influence public opinion on the scale that it had done. Nor could it hold up such an attractive inducement to the voters as it had offered. In one state election it was said to have spent six million dollars which was equal to the amount expended by both of the major national parties. It took money for the Lottery to exist and that money was cut off by the postal law.

A little more than one month after the Company announced it was withdrawing its offer, the two factions ran a primary race in which the voting was so close that each side contended it won. In the general election, the Anti-Lottery ticket was swept into office, thereby marking an end to any Lottery hopes of a new grant.

Thus the Louisiana State Lottery Company was for the greater part of 25 years the focal point of a long and bitter struggle for public opinion. Sanctioned as a revenue measure to bolster the state's war-drained coffers, condoned and tolerated while Reconstruction held sway, it thereafter extended its radius

² Kendall, *loc. cit.*, VIII, 561.

of influence to distant points throughout the United States. Even as it entered the national field on a large scale, the *Democrat* momentarily threatened its supremacy only to be crushed itself. As the monopoly made itself felt in the national sphere, the press marshaled public opinion that crystallized in congressional legislation that placed the Company in its death throes. Within Louisiana the gigantic speculative enterprise especially strove with money to stem the onrushing tide that surged forth in a flood of ballots to manifest the final ultimatum of the people even as the Lottery accepted its fate of being swept into discard.

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PROCEEDINGS OF THE SOCIETY

The regular monthly meeting of the Louisiana Historical Society was held in the Sala Capitular of the Cabildo on Tuesday, April 27, 1948, the President, the First Vice President, the Recording Secretary, and a quorum of the membership being present.

The following persons were nominated for membership in the Society by the Membership Committee and duly elected by the members assembled: Mrs. Harry D. Wilson, of Amite, La., and Mr. Roy Heidelberg, II, of Baton Rouge, La.

Mrs. Henry Landry de Freneuse, a member of the Executive Council of the Society, who is president of the Orleans Foundation, reported to the Society on the arrival in France of the Friendship Ship, and the gratification of the French people for this splendid demonstration of American good will.

Due to the unavoidable absence of the scheduled speaker, the President, Mr. Edward Alexander Parsons, delivered a lecture from rough notes on *Shakespeare in New Orleans*, covering particularly the period from the first presentation, June 2, 1817, to 1842.

During the course of an interesting and informative talk, Mr. Parsons listed the Shakespearean plays which were given in English and in French during that period, and dwelt at some length on many of the famous actors and actresses who presented Shakespeare to the audiences of that time, on the contemporary reviews, and on the highlights of production of the period, especially in regard to the French versions of Shakespeare's plays, adapted by Mr. Ducis, of the French Academy.

There being no further business, the meeting adjourned.

The regular monthly meeting of the Louisiana Historical Society was held in the Sala Capitular of the Cabildo on Tuesday, May 25, 1948, the President, the Recording Secretary, the Editor of *The Louisiana Historical Quarterly*, and a quorum of the membership being present.

The following persons were nominated for membership in the Society by the Membership Committee and duly elected by the members present: Mrs. Joseph B. Mooney, Mrs. Charles Babin, and Mr. John Caffery.

The President introduced the speaker of the evening, Dr. Walter Prichard, Professor of History at Louisiana State University, and Editor of *The Louisiana Historical Quarterly*. Dr. Prichard's address, *The Man Who Did Not Become the First Governor of the Territory of Orleans*, has been published in the April, 1948, number of *The Louisiana Historical Quarterly* under the title, *Selecting a Governor for the Territory of Orleans*, and will therefore not be briefed here.

There being no further business, the meeting adjourned.

The regular monthly meeting of the Louisiana Historical Society was held in the Sala Capitular of the Cabildo on Tuesday, June 22, 1948, the President, the First Vice President, the Recording Secretary, and a quorum of the membership being present.

This being the last meeting of the year, the Executive Council reported to the membership its satisfaction with the proceedings of the Society during the year. A number of distinguished speakers were heard at the monthly meetings of the Society. A fine piece of original research was presented by Dr. Lionel Durel in a paper on Creole Civilization, and an interesting address on little known aspects of the selection of the first governor for the Orleans Territory was given by Dr. Prichard.

The President introduced the Honorable Lionel Vasse, Consul General of France, the speaker of the evening, whose paper, *The Anatomy of Diplomacy*, will be published in a future issue of *The Louisiana Historical Quarterly*, and will therefore not be treated here.

At the conclusion of Mr. Vasse's paper, Mr. André Lafargue, First Vice President of the Society, the Honorable Albert Calvert, Consul General of Great Britain, and Mr. Lionel Durel all expressed their appreciation to Mr. Vasse for his splendid paper.

All members and guests present were invited to remain for the reception which customarily takes place after the last meeting of the year, and there being no further business, the meeting adjourned.



